

**1955  
REGULAR  
SESSION  
LAWS**

**LAWS**  
**OF THE**  
**TERRITORY OF HAWAII**  
**PASSED BY THE**  
**TWENTY-EIGHTH LEGISLATURE**

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**REGULAR SESSION**  
**1955**

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Convened on Wednesday, the Sixteenth Day of February, and  
Adjourned Sine Die on Friday, the Twenty-ninth Day of April

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Published by Authority under the  
Direction of the Secretary of Hawaii  
Honolulu, Hawaii

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1955

## FOREWORD

**§§ 2-3, REVISED LAWS OF HAWAII 1945, AS AMENDED, PROVIDE AS FOLLOWS:**

"Sec. 2. Publishing of session laws. As soon as possible after the close of each session of the legislature, the Secretary of the Territory or any other officer or employee of the Territory designated by the governor shall cause all laws duly enacted at such session to be printed, indexed and bound in book form, first the bills and then joint resolutions, in the order of their becoming law.

"Sec. 3. Certain acts not obligatory until published. No written law, unless otherwise specifically provided by legislative enactment, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, shall be obligatory without first being printed and made public. General or special appropriation acts, loan fund acts, pension acts and franchise acts whether affecting territorial funds or the funds of county or other municipal subdivisions or commissions, shall become operative according to their respective terms merely by being passed and approved in the manner provided by sections 44 to 54, inclusive, of the Organic Act without the necessity of any other promulgation than the ultimate inclusion thereof in the bound volume of respective session laws as provided in section 69 of the Organic Act."

## CERTIFICATE

### Territory of Hawaii Office of the Secretary

I, Farrant L. Turner, Secretary of the Territory of Hawaii, do hereby certify that the printed Acts and Joint Resolutions set forth herein are true and correct copies of the original Acts and Resolutions enacted by the Twenty-eighth Legislature of the Territory of Hawaii at its regular session of 1955, which was convened in Honolulu on Wednesday, the sixteenth day of February, 1955, and adjourned sine die on Friday, the twenty-ninth day of April, 1955; that all such Acts and Resolutions, except as otherwise specifically noted, were approved by the Governor of Hawaii in accordance with the provisions of the Organic Act.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the Territory of Hawaii on the 30th day of November, 1955.



*Farrant L. Turner*

Farrant L. Turner  
Secretary of Hawaii



**CHIEF EXECUTIVE AND OFFICERS AND MEMBERS OF THE  
TWENTY-EIGHTH LEGISLATURE OF THE  
TERRITORY OF HAWAII**

**REGULAR SESSION OF 1955**

Governor of Hawaii..... King, Samuel Wilder

**SENATE**

President..... Heen, William H.  
Vice-President..... Nobriga, William J.  
Clerk..... Richardson, William S.

District	Name	Address
First.....	*Abe, Kazuhisa (D).....	Hilo, Hawaii
	Doi, Nelson K. (D).....	P. O. Box 1393, Hilo, Hawaii
	Hill, William H. (R).....	Hilo, Hawaii
	*Nobriga, William J. (D).....	Hilo, Hawaii
Second.....	*Ansai, Toshio (R).....	Wailuku, Maui
	*Duarte, John Gomes (D).....	Wailuku, Maui
	Duponte, Dee (D).....	Wailuku, Maui
Third.....	*Dillingham, Benjamin F. (R).....	P. O. Box 3288, Honolulu, Hawaii
	Heen, William H. (D).....	1585 Thurston Ave., Honolulu
	*Itagaki, Joseph R. (R).....	1016 Ala Moana Blvd., Honolulu
	*Lee, Herbert K. H. (D).....	4950 Mana Place, Honolulu
	Takahashi, Sakae (D).....	2512-B Waolani Ave., Honolulu
	Tsukiyama, Wilfred C. (R).....	89 S. King Street, Honolulu
Fourth.....	Fernandes, John B. (D).....	Kapaa, Kauai
	*Miyake, Noboru (R).....	Waimea, Kauai
<hr/>		
	*Holdovers .....	8
	D—Democrat .....	9
	R—Republican .....	6

## OFFICERS AND MEMBERS OF THE LEGISLATURE

### HOUSE OF REPRESENTATIVES

Speaker.....Kauhane, Charles E.  
Vice-Speaker.....Cravalho, Elmer F.  
Clerk.....Trask, James K.

District	Name	Address
<b>First</b>	Aduja, Peter A. (R)	Hilo, Hawaii
	Garcia, Joseph R., Jr. (R)	P. O. Box 295, Hakalau, Hawaii
	Hara, Stanley I. (D)	513 Kalanikoa Street, Hilo, Hawaii
	Kobayashi, Raymond M. (D)	Hilo, Hawaii
<b>Second</b>	Hind, Robert L., Jr. (R)	P. O. Box 2, Hookena, Hawaii
	Nakashima, Sumio (D)	P. O. Box 130, Holualoa, Hawaii
	Pule, Akoni (D)	P. O. Box 265, Halaula, Hawaii
	Richardson, Esther K. (R)	P. O. Box 237, Kealahkekua, Hawaii
<b>Third</b>	Cravalho, Elmer F. (D)	Waiakoa, Kula, Maui
	Kimura, Robert N. (D)	P. O. Box 571, Wailuku, Maui
	Lydgate, E. P. (R)	Makawao, Maui
	Paschoal, Manuel Gomes (R)	Wailuku, Maui
	Trask, David K., Jr. (D)	Kahului, Maui
	Yoshinaga, Nadao (D)	Wailuku, Maui
<b>Fourth</b>	Doi, Masato (D)	1010 Alakea St., Honolulu, Hawaii
	Inouye, Daniel K. (D)	2332 Coyne St., Honolulu, Hawaii
	Kahanamoku, Anna Furtado (D)	3820 Monterey Dr., Honolulu, Hawaii
	Kono, Russell K. (D)	2332-A Booth Rd., Honolulu, Hawaii
	Matsunaga, Spark M. (D)	1320-A 7th Avenue, Honolulu, Hawaii
	Porteus, Hebden (R)	2160 Manoa Road, Honolulu, Hawaii
<b>Fifth</b>	Ariyoshi, George R. (D)	308 McCandless Bldg., Honolulu
	Esposito, O. Vincent (D)	2707 Liliha St., Honolulu, Hawaii
	Fukushima, Yasutaka (R)	263 Walker Ave., Wahiawa, Hawaii
	Kauhane, Charles E. (D)	167 N. Hotel St., Honolulu, Hawaii
	Minn, Philip P. (D)	100 Jaluit St., Moanalua Ridge, Honolulu, Hawaii
	Noda, Steere G. (D)	P. O. Box 712, Honolulu, Hawaii
<b>Sixth</b>	Fernandes, William E. (D)	P. O. Box 671, Kapaa, Kauai
	Henriques, Manuel S. (D)	P. O. Box 368, Kapaa, Kauai
	Serizawa, Toshio (D)	P. O. Box 806, Lihue, Kauai
	Yama, Toshiharu (D)	Lihue, Kauai

D—Democrat ..... 22  
R—Republican ..... 8

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355	246	768	60	337	201	902	32	1295	80
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387	31	833	92	499	77	943	85	1354	222
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393	7	838	250	542	118	954	69	Total: 163	
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457	248	857	105	551	259	975	115		
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477	152	871	265	565	122	1003	79		
480	135	876	154	568	172	1009	137		
483	270	904	167	572	38	1016	225		
484	48	915	212	579	39	1018	87		
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17	35	38	5
19	47	41	44
26	4	43	37
30	30	56	12
45	2	67	21
52	46	74	16
55	26	83	17
60	1	89	42
61	18	90	34
66	53	96	10
85	31	107	9
89	7	109	51
90	23	110	15
93	49	115	52
95	36	119	32
101	27	130	41
105	43	133	6
113	28	139	55
119	29	140	13
121	45	153	19
126	54	163	33
133	38	175	24
136	50	177	14
		180	40
		190	56
		193	57
Total: 27		30	

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LEGISLATURE, 1955**

**Key Abbreviations:**

Ad——Added    R——Repealed    Am——Amended

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4390.0601	Ad	27	6334-46	Ad	201
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# 1955

## Laws Of The Territory Of Hawaii

### Passed By The

### Twenty-Eighth Legislature

### Regular Session

---

#### ACT 1

An Act to Appropriate Money for the Expenses of the Legislature of the Territory of Hawaii and of any Holdover Committee or Committees thereof for the Periods herein Specified.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the public treasury the sum of two hundred forty thousand dollars (\$240,000.00) or so much thereof as may be necessary, for the purpose of defraying the expenses of the Senate of the Twenty-Eighth Legislature of the Territory of Hawaii for the period commencing February 16, 1955, and ending November 5, 1956.

SECTION 2. Any unencumbered balance of the appropriation provided for in Section 1 remaining at the close of the Regular Session of 1955 is hereby appropriated for the purpose of defraying the expenses of any holdover committee or committees established by the Senate.

SECTION 3. There is hereby appropriated from the public treasury the sum of two hundred sixty-five thousand dollars (\$265,000.00) or so much thereof as may be necessary, for the purpose of defraying the expenses of the House of Representatives of the Twenty-Eighth Legislature of the Territory of Hawaii for the period commencing February 16, 1955, and ending November 5, 1956.

SECTION 4. Any unencumbered balance of the appropriation provided for in Section 3 remaining at the close of the Regular Session of 1955 is hereby appropriated for the purpose of defraying the expenses of any holdover committee or committees established by the House.

SECTION 5. The auditor of the Territory of Hawaii shall, prior to the convening of the Twenty-Ninth Legislature, audit the accounts of the Senate and the House of Representatives of the sessions of the Twenty-Eighth Legislature of the Territory of Hawaii.

Immediately upon the completion of the audit, a full report thereon shall be presented to the Senate and to the House of Representatives of the sessions of the Twenty-Ninth Legislature of the Territory of Hawaii.

SECTION 6. The expenses of any member of the legislature while traveling abroad on official business of the legislature, shall not be limited by the provisions of Section 455 of the Revised Laws of Hawaii 1945 or any other general statute. The expenses of such member shall be such as may be allowed by the Senate or by the House of Representatives, respectively, as to members of said Senate or of said House of Representatives.

SECTION 7. Each section of this Act is hereby declared to be severable from the remainder of this Act.

SECTION 8. This Act shall take effect upon its approval.

(Approved February 25, 1955.) S.B. 1, Act 1.

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## ACT 2

An Act to Provide for the Payment of Allowance for Personal Expenses of the Members of the Legislature of the Territory of Hawaii While Attending Any Session of the Legislature, and Amending Act 86 of the Session Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1 of Act 86 of the Session Laws of Hawaii 1945, as amended, is hereby further amended by amending the first clause thereof, up to and including the semicolon, to read as follows:

"A member of the Legislature of the Territory, other than members residing on the Island of Oahu, while attending any session of the Legislature, shall be allowed twenty dollars a day, which amount is to cover all personal expenses, such as board, lodging and incidental expenses, but not traveling expenses, and a member of the Legislature of the Territory residing on the Island of Oahu, while attending any session of the Legislature, shall be allowed ten dollars a day, which amount is to cover incidental expenses;"

SECTION 2. The allowance payable under Act 86 of 1945 as hereby amended shall be calculated retroactively and payable from and including the 16th day of February, 1955.

SECTION 3. This Act shall take effect upon its approval.

(Approved March 14, 1955.) S.B. 41, Act 2.

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## ACT 3

An Act to Amend Sections 5516 and 5519 of the Revised Laws of Hawaii 1945, Relating to the Date of Payment of Income Tax and the Date of Filing Income Tax Returns.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5516 of the Revised Laws of Hawaii 1945 is hereby amended so that the second and third paragraphs thereof shall read as follows:

"Due date. The total amount of income tax imposed by this chapter shall be due on January 1 and payable on April 20 following the close of the calendar year, or, if the return be made on the basis of a fiscal year, then the tax shall be due on the first day following the close of such fiscal year and shall be paid on the twentieth day of the fourth month following the close of the fiscal year.

Instalment payments. The taxpayer may elect to pay the tax in four equal instalments, in which case the first instalment shall be paid on the date prescribed for the payment of the tax by the taxpayer, the second instalment shall be paid on the twentieth day of the second month, the third instalment on the twentieth day of the fifth month and the fourth instalment on the twentieth day of the eighth month after such date. If any instalment is not paid on or before the date fixed for its payment, the collector may, at his election, cause the whole amount of the tax unpaid to become payable upon not less than ten days' notice and demand, and the same shall be paid upon the date so fixed in the notice and demand from the collector."

SECTION 2. Section 5519 of the Revised Laws of Hawaii 1945, is hereby amended, so that the first paragraph thereof shall read as follows:

"Sec. 5519. Time for filing returns: General rule. Returns made on the basis of the calendar year shall be made and filed on or before April 20 following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed on or before the twentieth day of the fourth month following the close of the fiscal year."

SECTION 3. This Act shall take effect upon its approval.

(Approved March 16, 1955.) S.B. 9, Act 3.

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#### ACT 4

An Act to Amend Section 213 of the Revised Laws of Hawaii 1945, Relating to Elections, Including Hours of Voting.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 213 of the Revised Laws of Hawaii 1945, is hereby amended by substituting for the first five lines thereof the following:

"Sec. 213. Hours for voting. The polls shall be opened by the inspectors at 7 o'clock upon the morning of the election day, and shall be kept open continuously until 5:30 o'clock in the afternoon of said day; provided, that if, at the closing hour of voting, any".

SECTION 2. This Act shall take effect upon its approval.

(Approved March 29, 1955.) H.B. 146, Act 4.

ACT 5

An Act to Amend Section 4441 of the Revised Laws of Hawaii 1945, Relating to Reopening Cases and Continuing Jurisdiction of the Director in Workmen's Compensation Cases.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4441 of the Revised Laws of Hawaii 1945, as amended by Series A-84: Act 51 of the Session Laws of Hawaii 1953, is hereby further amended by substituting for the word "three" appearing in the sixth and eighth lines, respectively, of the third paragraph of this section, as amended, the word "ten".

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved April 2, 1955.) H.B. 52, Act 5.

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ACT 6

An Act Amending Act 193 of the Session Laws of Hawaii 1953 to Clarify the Appropriation Made for the New Baseball Park at Kapaa, Kauai.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 193 of the Session Laws of Hawaii 1953 is hereby amended by inserting the word "new" before the words "baseball park" as they appear in items (1) and (2) of section 1 of such Act 193.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 2, 1955.) H.B. 48, Act 6.

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Act 7

An Act to Amend Sections 13110.02, 13110.03 and 13110.12 of the Revised Laws of Hawaii 1945, as added thereto, Relating to the Purchasing and Making of Veterans' Home and Farm Loans by the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 13110.02 of the Revised Laws of Hawaii 1945, as added thereto, is hereby amended to read as follows:

"Sec. 13110.02. Purchase, servicing and sale of veterans' mortgages. On and after July 1, 1954, the treasurer may purchase, service and sell veterans' mortgages. The treasurer shall not pay for any veterans' mortgage an amount in excess of the unpaid principal balance thereof, plus accrued and unpaid interest, at the date of purchase."

SECTION 2. Subsections (a) and (b) of Section 13110.03 of the Revised Laws of Hawaii 1945, as added thereto, are hereby amended to read as follows:

"(a) If the effective date of the guarantee of the veterans' admin-

istration therefor is prior to July 1, 1954, or if the mortgage was made prior to July 1, 1954.

(b) If the dwelling unit is more than one single family residence or if the unpaid principal balance of the loan exceeds \$15,000.00."

SECTION 3. The second paragraph of Section 13110.12 of the Revised Laws of Hawaii 1945, as added thereto, is hereby amended to read as follows:

"If there are moneys in general, special, or revolving funds in the Territory which, in the treasurer's judgment, are in excess of the amounts necessary for the immediate territorial requirements, and if in his judgment the necessary financial operations of the Territory will not be impeded or hampered thereby, the treasurer may make temporary loans therefrom for the purposes of this chapter. Such loans shall in general comply with the provisions of section 5812 of the Revised Laws of Hawaii 1945, as amended."

SECTION 4. This Act shall take effect upon its approval.

(Approved April 7, 1955.) S.B. 393, Act 7.

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### ACT 8

An Act Relating to the Construction of a Dog Pound by the Kauai Humane Society and Amending Act 117 of the Session Laws of Hawaii 1953.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 117 of the Session Laws of Hawaii 1953 is hereby amended by adding at the end of Section 1 of said Act 117 the following sentence:

"In addition to the matter contained in said Section 7165 the Kauai Humane Society may expend funds turned over by the county to construct a dog pound on Kauai; **provided**, however, that the board of supervisors shall first approve the plans for the construction and location of the dog pound."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 13, 1955.) H.B. 723, Act 8.

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### ACT 9

An Act Relating to Territorial Holidays, and Amending Section 21 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 21 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting after the sub-paragraph "The first Monday in September, known as Labor Day," the following:

"The eleventh day of November, to be known as Veterans' Day,".  
**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 15, 1955.) **S.B. 17, Act 9.**

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### ACT 10

**An Act to Place under Civil Service Employees of the Wahiawa Water Company Now Employed by the Suburban Water System of the City and County of Honolulu.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Every employee of the suburban water system of the city and county of Honolulu now employed by such system who was in the employ of the Wahiawa Water Company at the time of its transfer to such suburban water system is hereby declared to be a regular employee of the civil service system of the city and county of Honolulu without loss of his vacation allowance, service credit and other rights and privileges, and to be covered by the provisions of chapters 2 and 3 of the Revised Laws of Hawaii 1945, as amended, without the necessity of qualifying by examination for any position held at the time of the effective date hereof.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 15, 1955.) **H.B. 724, Act 10.**

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### ACT 11

**An Act to Amend Section 4150.03 of the Revised Laws of Hawaii 1945, as Added by Act 250 (Series A-68) of the Session Laws of Hawaii 1945, Relating to Definitions.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 4150.03** of the Revised Laws of Hawaii 1945, as added by Act 250 (Series A-68) of the Session Laws of Hawaii 1945, is hereby amended by substituting for the period following the word "time" appearing on line thirty of subsection (3) thereof, a semicolon, and by adding the following after the said semicolon:

"provided however, that the term "employee" shall include any individual subject to the jurisdiction of the National Labor Relations Act, as amended from time to time, but over whom the National Labor Relations Board has declined to exercise jurisdiction or has indicated by its decisions and policies that it will not assume jurisdiction."

**SECTION 2.** This Act shall take effect upon approval.

(Approved April 15, 1955.) **H.B. 903, Act 11.**

## ACT 12

An Act to Amend Chapter 15, Revised Laws of Hawaii 1945, as Amended Relating to the Employees' Retirement System of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 15, Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending section 718.01 thereof to read as follows:

"Sec. 718.01. **Named beneficiaries, effect of marriage, divorce, or death.** All nominations by written designation of beneficiaries shall become null and void when: (1) the beneficiary predeceases the member; (2) the member is divorced from the beneficiary; and (3) the member is unmarried and subsequently marries. Any of the above events shall operate as a complete revocation of such designation and all benefits payable by reason of the death of such person shall be payable to his legal representatives unless, after such marriage, he makes other provision in a written designation duly executed and filed with the board."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 18, 1955.) S.B. 256, Act 12.

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## ACT 13

An Act to Amend Chapter 77, Revised Laws of Hawaii 1945, as Amended, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 77 of the Revised Laws of Hawaii 1945, as amended is hereby further amended in the following respects:

(a) By deleting from the definition of "Injury" in Section 4401 the words "within three years".

(b) By amending Section 4411 thereof, relating to "Death benefits," to read as follows:

"Sec. 4411. **Death benefits.** If death results from the injury, the employer or the insurance carrier shall pay funeral and burial expenses not to exceed seven hundred and fifty dollars; and shall also pay to or for the following persons a weekly compensation equal to the percentages of the deceased employee's average weekly wages as defined in section 4419; provided that such weekly payments shall not exceed sixty-six and two-thirds per centum of the average weekly wages:

1. To the dependent widow or widower, if there be no dependent children, fifty per centum.

2. To the dependent widow or widower, if there be one or more dependent children of the deceased, sixty-six and two-thirds per cen-



tum. The compensation to the widow or widower shall be for the use and benefit of the widow or widower and of the dependent children, and the director may from time to time apportion the compensation between them in such way as he deems best.

3. If there be no dependent widow or widower, but a dependent child, then to such child forty per centum, and if there be more than one dependent child, to such children, in equal parts, sixty-six and two-thirds per centum.

4. If there be neither dependent widow, widower, nor child, but there be a dependent father or mother, then to the parent, if wholly dependent fifty per centum, or if partially dependent twenty-five per centum, or if both parents be dependent, then one-half of the foregoing compensation to each of them; or, if there be no parents, but a dependent grandparent, then to each grandparent the same compensation as to a parent.

5. If there be neither dependent widow, widower, child, parent or grandparent, but there be a dependent grandchild, brother or sister, or two or more of them, then to the dependents thirty-five per centum for one dependent increased by fifteen per centum for each additional dependent, to be divided equally among the dependents if more than one.

6. If there be no dependents who are entitled to compensation under this chapter, the employer or the insurance carrier shall pay the sum of two thousand dollars, pursuant to an order made by the director for deposit into a special fund, in accordance with the provisions of section 4417.01.

The burden of proving the cause of death of an injured workman shall, in every instance, be borne by the person claiming the benefits of this section."

(c) By deleting the last paragraph of **Section 4412** thereof, relating to "Dependents", and inserting in lieu thereof the following paragraph:

"Compensation under this chapter to aliens not residents of the United States shall not exceed the sum of ten thousand dollars; **provided** that dependency shall be determined as of the time of the injury and no alien dependents shall lose or forfeit any of his rights or benefits under this chapter by leaving the United States subsequent to the determination of dependency, **provided** further than they shall maintain annually proof of such dependency as required by the director. Alien dependents in any foreign country shall be limited to surviving wife and child or children, or if there is no surviving wife or child, to dependent parents or the survivor thereof."

(d) By amending **Section 4413** thereof, relating to "Periods of compensation", to read as follows:

**"Sec. 4413. Periods of compensation.** The compensation provided for in section 4411 shall be payable during the following periods, but for any one death shall not exceed in the aggregate the sum of twenty thousand dollars, except as otherwise provided with respect to a widow or child:

To a widow, until death or remarriage, with two years' compensation in one sum upon remarriage. In the case of a widow who is

physically or mentally incapable of self-support and unmarried, the above monetary limitation shall not apply and compensation shall be payable as long as she is so incapable and unmarried.

To a widower, during disability or until remarriage.

To or for a child, until eighteen years of age, whether or not such payment exceeds twenty thousand dollars. In the case of a child over eighteen who is incapable of self-support and unmarried, the above monetary limitation shall not apply and compensation shall be payable as long as so incapable and unmarried, but not to exceed one hundred and four weeks beyond the age of eighteen years.

To a parent or grandparent, during the continuation of a condition of actual dependency.

To or for a grandchild, brother, or sister, during dependency as defined in section 4412.

Upon the cessation of compensation under this section to or on account of any person, the compensation of the remaining persons entitled to compensation for the unexpired part of the period during which their compensation is payable shall be that which the persons would have received if they had been the only persons entitled to compensation at the time of the decedent's death."

(e) By amending Section 4414 thereof, relating to "Death benefits; average weekly wages; payments to whom, etc.", to read as follows:

**"Sec. 4414 Death benefits; average weekly wages; payments to whom, etc.** In computing death benefits the average weekly wages of the deceased employee shall be considered to be not more than seventy-five dollars, nor less than twenty-seven dollars, but the total weekly compensation shall not exceed in any case the average weekly wages computed as provided in section 4419.

Payment of death benefits by an employer in good faith to a dependent subsequent in right to another or other dependent shall protect and discharge the employer unless and until the dependent or dependents prior in right shall have given him notice of his or their claim. In case the employer is in doubt as to the respective rights of rival claimants, he may apply to the director to decide between them.

The compensation of a person who is insane shall be paid to his guardian."

(f) By amending Section 4416 thereof, relating to "Permanent total disability" and to "Temporary total disability", in the following respects:

(1) By substituting for the amounts "thirty-five dollars" and "eight dollars" in the first sentence in part 1 thereof the amounts "fifty dollars" and "eighteen dollars," respectively.

(2) By substituting for the amount "fifty dollars" in the fourth paragraph thereof, beginning with the words "An injured employee", the amount of "one hundred fifty dollars."

(3) By substituting for the amount "ten thousand five hundred dollars" in the first sentence of the last paragraph in part 1 thereof the amount "twenty thousand dollars".

(4) By substituting for the amount "ten dollars" in the second sentence of the last paragraph in part 1 thereof the amount "eighteen dollars".

(5) By amending part 2 thereof to read as follows:

"2. Temporary total disability. Where the injury causes total disability for work, the employer, during disability, but not including the first two days thereof, except as hereinafter provided, shall pay the injured employee a weekly compensation equal to sixty-six and two-thirds per centum of his average weekly wages, but not more than fifty dollars nor less than eighteen dollars a week, except that the weekly compensation of an employee whose average weekly wages are less than eighteen dollars a week shall be the full amount of his average weekly wages; **provided, however,** that in case the injury results in disability of more than seven days, the compensation shall be allowed from the date of disability."

In no case shall the weekly payments continue after the disability ends, nor shall the amount of compensation paid in any case exceed in the aggregate the sum of twenty thousand dollars".

(g) By amending Section 4417 thereof, as amended, in the following respects:

(1) By amending the first paragraph of part 1 of section 4417 to read:

"Sec. 4417. (a) **Permanent partial disability.** Where the injury causes a disability partial in character but permanent in duration, the employer shall pay the injured employee, regardless of his immediate subsequent ability for work, a weekly compensation equal to sixty-six and two-thirds per cent of his average weekly wages but not more than fifty dollars nor less than eighteen dollars a week (except that the weekly compensation of an employee whose average weekly wages are less than eighteen dollars a week shall be the full amount of his average weekly wages) for the period named in the schedule as follows:"

(2) By amending the last paragraph in part 1 of section 4417 to read:

"Other cases. In all lesser or other cases involving permanent loss or where the usefulness of a member or any physical function is impaired, the weekly compensation shall be sixty-six and two-thirds percent of the average weekly wages, subject to the maximum and minimum limitations hereinabove set, and the duration of compensation shall bear the relation to the specific periods of time stated in the above schedule as the disabilities bear to those produced by the injuries named in the schedule. In cases in which the disability is determined as a percentage of total and permanent disability, the maximum compensation shall be computed on the basis of the corresponding percentage of twenty thousand dollars."

(3) By amending part 2 thereof to read as follows:

"2. Temporary partial disability. Where the injury causes partial disability for work, the employer, during the continuance of the disability, beginning with the first day of such disability, shall pay the injured workman a weekly compensation equal to sixty-six and two-thirds per centum of the difference between his average weekly wages before the accident and the weekly wages he will most probably be able to earn thereafter, but not more than thirty-five dollars nor less than eight dollars a week. In no case shall the weekly payments

continue after the disability ends. But no adjudication of disability shall be made until after two weeks from the date of injury."

(4) By amending part 4, entitled "Maximum compensation," to read as follows:

"4. Maximum compensation. The total liability of an employer for compensation under this section and under section 4416, taken together, shall not exceed in the aggregate the sum of twenty thousand dollars, but any amount paid for artificial members, aids or appliances under paragraph 3 of this section shall not be included in computing said sum."

(h) By amending Section 4417.01, relating to "Special compensation and accident prevention fund" by substituting for the amount "five hundred dollars" wherever it appears, the amount "two thousand dollars".

(i) By deleting the words "and accident prevention" from the title of the special compensation and accident prevention fund wherever the fund is referred to in sections 4416, 4417.01, 4417.02, 4417.03, and 4417.04.

(j) By amending Section 4417.04 thereof, relating to "Payment after death" in the following respects:

(1) By amending the first paragraph thereof to read as follows:

"Sec. 4417.04. Payment after death. When an employee has been awarded or is entitled to an award of compensation for permanent partial disability and dies from any other cause than the injury for which he was entitled to compensation, payment of the unpaid balance of compensation shall be made weekly to his dependents within the meaning of section 4412 as follows:"

(2) By substituting for the amount "five hundred dollars" wherever it appears in subsection 5 thereof the amount "two thousand dollars".

(k) By adding a new section following Section 4417, to be appropriately numbered and to read as follows:

"Sec. [4417.05]. Rehabilitation. The director is authorized to make expenditures from the special compensation fund for the retraining and rehabilitation of permanently disabled persons whose condition is the result of an injury compensable under this chapter. Expense of evaluation, instruction, necessary transportation, and maintenance during the period of retraining and rehabilitation may be paid in whole or in part under this section, but no more than one thousand dollars shall be paid to or on behalf of any one disabled person."

(l) By amending Section 4418, relating to "Minors", by substituting for the amount "eight dollars" the amount "eighteen dollars".

(m) By amending Section 4423, relating to "Commutation of payments", to read as follows:

"Sec. 4423. Commutation of payments. Whenever the director determines that it is in the interest of justice, the liability of the employer for compensation, or any part thereof as determined by the director may be discharged by the payment of a lump sum equal to the present value of future compensation payments commuted, computed at four per centum true discount compounded annually. The probability of the death of the injured employee or other persons en-

titled to compensation before the expiration of the period during which he is entitled to compensation shall be determined in accordance with the American Experience Table of Mortality, and the probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

The liability of the employer for medical, surgical and hospital services and supplies shall not be affected by the discharge in part of liability for compensation by payment of one or more lump sums."

(n) By amending Section 4453, relating to "Assignment; fees", to read as follows:

"Sec. 4453. **Assignment; fees.** No claims for compensation under this chapter shall be assignable, and all compensation and claims therefor shall be exempt from all claims of creditors.

Claims of attorneys and physicians for services under this chapter and claims for any other services rendered in respect of a claim or award for compensation, to or on account of any person, shall not be valid unless approved by the director, or if an appeal be had pursuant to section 4443, unless approved by such court. Any claim so approved shall, in the manner and to the extent fixed by the director or such court, be a lien upon such compensation.

Any person who receives any fee, other consideration, or gratuity on account of services so rendered, unless such consideration or gratuity is approved by the director or such court, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or by imprisonment not to exceed one year, or by both such fine and imprisonment."

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved April 19, 1955.) H.B. 19, Act 13.

## ACT 14

An Act to Amend Sections 4415 and 4425 of the Revised Laws of Hawaii 1945 Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4415 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4415. **Medical attendance.** Immediately after an injury sustained by an employee and during the resulting period of disability, the employer shall furnish to the employee such medical, surgical and hospital services and supplies as the nature of the injury may require, as provided hereinbelow.

Whenever medical care is required, the injured employee may designate any physician or surgeon who is practicing on the island in which the injury was incurred to render such care. Upon procuring the

services of such physician or surgeon, the injured employee shall give proper notification of his selection to the employer within a reasonable time after being first treated. If for any reason during the period when medical care is required, the employee wishes to change to another physician or surgeon, he may do so in accordance with rules prescribed by the director. If the employee is unable to designate a physician or surgeon and the emergency nature of the injury requires immediate medical care, or if he does not desire to designate a physician or surgeon and so advises the employer, the employer shall designate the physician or surgeon. The foregoing provision shall not, however, deprive the employee from subsequently designating a physician or surgeon for continuance of required medical care.

The pecuniary liability of the employer for medical, surgical and hospital services and supplies required shall be limited to such charges as prevail in the community in which the physician or surgeon selected has his office for similar treatment of injured persons of a like standard of living, when the treatment is paid for by the injured person.

If it shall appear to the director that the injured employee has wilfully refused to accept the services of a competent physician and surgeon designated as provided in this section, or has wilfully obstructed the said physician or surgeon or medical, surgical or hospital services or supplies, the director may in his discretion construe such refusal or obstruction on the part of the employee to be a waiver by him in whole or in part of his right to medical, surgical and hospital services and supplies, and may in his discretion suspend the weekly compensation, if any, to which such employee is entitled so long as such refusal or obstruction continues."

**SECTION 2.** Section 4425 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 4425. Medical Examination.** After an injury and during the period of disability, the workman, whenever ordered by the director, shall submit himself to examination, at reasonable times and places, to a duly qualified physician or surgeon designated and paid by the employer. The workman shall have the right to have a physician or surgeon designated and paid by himself present at the examination, which right, however, shall not be construed to deny to the employer's physician the right to visit the injured workman at all reasonable times and under all reasonable conditions during total disability. If a workman refuses to submit himself to, or in any way obstructs such examination, his right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases, and no compensation shall be payable for the period during which the refusal or obstruction continues.

In cases where the employer is dissatisfied with the progress of the case, or where major and/or elective surgery is contemplated, he may appoint a physician or surgeon of his choice who shall examine the injured employee and make a report to the employer. Should the

employer remain dissatisfied, this report may be forwarded to the director."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 20, 1955.) **H.B. 16, Act 14.**

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## ACT 15

An Act to Amend Sections 4352 and 4353 of the Revised Laws of Hawaii 1945, Relating to Wages and Hours.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4352 of the Revised Laws of Hawaii 1945, as amended, is further amended by substituting for the words "three hundred" in the definition of "Employee" the words "three hundred fifty".

SECTION 2. Section 4353 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 4353. **Minimum wages.** Every employer shall, except as the director may provide pursuant to section 4359, pay to each employee employed by him wages at the rate of not less than seventy-five cents an hour in the city and county of Honolulu, and not less than sixty-five cents an hour in each of the counties of Hawaii, Maui, and Kauai."

SECTION 3. This Act shall take effect on July 1, 1955.

(Approved April 21, 1955.) **H.B. 13, Act 15.**

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## ACT 16

An Act to Amend Chapter 74 of the Revised Laws of Hawaii 1945, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 74 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending sections 4215, 4216, and 4217 to read:

"Sec. 4215. **Weekly benefit amount.** Except as provided with respect to qualifying wages, an individual's weekly benefit amount shall be the amount appearing in column B in the table in this section on the line on which, in column A of such table, there appears the total wages paid to such individual for insured work in that quarter of his base period in which such total wages were highest.

High Quarter Wages (Column A)	Basic Weekly Benefit (Column B)	Minimum Qualifying Wages (Column C)	Maximum Total Benefits in Benefit Year (Column D)
\$ 37.50-125.00	\$ 5.00	\$ 150.00	\$100.00
125.01-150.00	6.00	180.00	120.00
150.01-175.00	7.00	210.00	140.00
175.01-200.00	8.00	240.00	160.00
200.01-225.00	9.00	270.00	180.00
225.01-250.00	10.00	300.00	200.00
250.01-275.00	11.00	330.00	220.00
275.01-300.00	12.00	360.00	240.00
300.01-325.00	13.00	390.00	260.00
325.01-350.00	14.00	420.00	280.00
350.01-375.00	15.00	450.00	300.00
375.01-400.00	16.00	480.00	320.00
400.01-425.00	17.00	510.00	340.00
425.01-450.00	18.00	540.00	360.00
450.01-475.00	19.00	570.00	380.00
475.01-500.00	20.00	600.00	400.00
500.01-525.00	21.00	630.00	420.00
525.01-550.00	22.00	660.00	440.00
550.01-575.00	23.00	690.00	460.00
575.01-600.00	24.00	720.00	480.00
600.01-625.00	25.00	750.00	500.00
625.01-650.00	26.00	780.00	520.00
650.01-675.00	27.00	810.00	540.00
675.01-700.00	28.00	840.00	560.00
700.01-725.00	29.00	870.00	580.00
725.01-750.00	30.00	900.00	600.00
750.01-775.00	31.00	930.00	620.00
775.01-800.00	32.00	960.00	640.00
800.01-825.00	33.00	990.00	660.00
825.01-850.00	34.00	1,020.00	680.00
850.01-and over	35.00	1,050.00	700.00

**Sec. 4216. Weekly benefit for unemployment.** Each eligible individual who is unemployed, as defined in section 4202 (q), in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less that part of the wages (if any) payable to him with respect to such week which is in excess of \$2. Such benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

**Sec. 4217. Duration of benefits.** The maximum potential benefits of an eligible individual in a benefit year shall be the amount appearing in column D of the schedule in section 4215 on the line on which, in column B of the schedule, appears his weekly benefit amount."

(b) By amending section 4253 to read:

"Sec. 4253. Rates based on experience. Subject to the require-



ments of sections 4248 to 4252 and 4254, an employer's rate shall be:

(a) 2.25 per centum if such excess equals or exceeds 5.5 per centum but is less than 6.0 per centum of his average annual payroll;

(b) 1.8 per centum if such excess equals or exceeds 6 per centum but is less than 6.5 per centum of his average annual payroll;

(c) 1.35 per centum if such excess equals or exceeds 6.5 per centum but is less than 7.0 per centum of his average annual payroll;

(d) .9 per centum of such excess equals or exceeds 7.0 per centum but is less than 7.5 per centum of his average annual payroll;

(e) .45 per centum if such excess equals or exceeds 7.5 per centum but is less than 8.0 per centum of his average annual payroll;

(f) zero, and no contributions payable, if such excess equals or exceeds 8 per centum of his average annual payroll."

SECTION 2. With the exception of subsection (b) of section 1 hereof, this Act shall take effect on July 3, 1955, and shall apply only to benefit years beginning on or after such effective date. Subsection (b) of section 1 shall take effect on January 1, 1956.

(Approved April 21, 1955.) H.B. 55, Act 16.

## ACT 17

An Act Abolishing the Board of Parks, Playgrounds and Recreation of the County of Maui, Transferring its Powers and Duties to the Board of Supervisors of the County of Maui, and Amending Act 208 of the Session Laws of Hawaii 1951.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 208 of the Session Laws of Hawaii 1951, creating the Board of parks, playgrounds and recreation of the county of Maui, is hereby amended in the following respects:

(a) By repealing sections 1, 2, and 3 thereof.

(b) By amending section 4 thereof by changing all references to the "board of parks, playgrounds and recreation" to read the "board of supervisors of the county of Maui", and by deleting the last sentence.

(c) By amending section 5 thereof by changing the words "board of parks, playgrounds and recreation" as they appear in the first sentence thereof to read "board of supervisors."

(d) By amending section 6 thereof by amending the first sentence to read as follows:

"The board of supervisors of the county of Maui is authorized to purchase, sell or exchange or otherwise dispose of park, playground, or recreational property, whether real or personal."

(e) By amending section 7 thereof by changing the word "board" as it appears in the first line to read "board of supervisors."

(f) By amending section 8 thereof to read as follows:

"[Sec. 6487.08.] Section 8. **Appropriations.** All appropriations of the county of Maui for purposes of parks, playgrounds or recreation (other than at public schools) shall be held by the county treasurer in a special fund, and may be expended by the board of supervisors for purposes herein stated."

**SECTION 2.** All powers, duties, responsibilities, and obligations, including financial resources and liabilities, of the board of parks, playgrounds and recreation of the county of Maui shall be assumed by the board of supervisors of the county of Maui. Wherever the designation "board of parks, playgrounds and recreation of the county of Maui" or its equivalent appears in the laws of the Territory, or in rules and regulations made pursuant to such laws, the same shall be read the "board of supervisors of the county of Maui."

**SECTION 3.** All employees under the supervision of the board of parks, playgrounds and recreation of the county of Maui, including the superintendent, shall continue as employees of the county of Maui under the general supervision of the board of supervisors of the county of Maui. No employee shall suffer a reduction in pay or in vacation and sick leave credits as result of this transfer of control and supervision of the county parks and playgrounds. All subsequent appointments, suspensions, removals, or promotions of employees affected by this transfer, with the exception of the superintendent, shall be subject to the provisions of the civil service and classification laws in effect and applicable to the county of Maui.

**SECTION 4.** The board of supervisors of the county of Maui is hereby authorized to create and appoint members to an advisory parks and recreation committee to aid in its control and supervision of the county parks and playgrounds under its jurisdiction.

**SECTION 5.** This Act shall in no way be construed so as to adversely affect any outstanding contracts or obligations of the board of parks, playgrounds and recreation of the county of Maui.

**SECTION 6.** This Act shall take effect on July 1, 1955.

(Approved April 21, 1955.) **H.B. 295, Act 17.**

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## ACT 18

An Act to Amend Chapter 74 of the Revised Laws of Hawaii 1945, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 74 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By amending subsection (A) of section 4248 to read:

"(A) 'Annual payroll' means the total amount of wages for employment paid by an employer during a calendar year; and 'average annual payroll' means the average of the annual payrolls of an em-

ployer for a period consisting of the three consecutive calendar years immediately preceding the calendar year for which rates are computed, except that, for an employer whose account has been chargeable with benefits throughout at least one year but less than three years ending on December 31, 1955 and each December 31 thereafter, 'average annual payroll' means one-third of the sum of his cumulative payrolls for the period in which he has been subject to this chapter, but not more than the three calendar years ending on such December 31. Whenever there was or is a change in the definition of 'employment' or in the definition of 'wages', effective for the purposes of this chapter generally or of this part at the commencement of or at a date within the three-year period of any average annual payroll, 'employment' and 'wages', for the purpose of determining each annual payroll within such period and the average annual payroll for such period, shall have the meaning prior to the effective date of such change which they had in accordance with the provisions of this chapter then in effect and shall have the meaning after the effective date of such change assigned to them by the amendment to this chapter providing for such change."

(2) By amending subsection (B) of section 4251 to read:

"(B) No employer's rate for the calendar year 1942 and for any calendar year thereafter, shall be reduced below the standard rate unless and until his account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period ending on December 31 of the preceding calendar year, except that, for the calendar year 1956 and for each calendar year thereafter, an employer who has not been subject to the law for a sufficient period to meet this requirement may qualify for a rate less than the standard rate if his account has been chargeable throughout a lesser period but in no event less than the twelve-consecutive-calendar-month period ending on December 31 of the preceding calendar year."

SECTION 2. This Act shall take effect on January 1, 1956.

(Approved April 21, 1955.) S.B. 385, Act 18.

## ACT 19

An Act to Amend Chapter 71 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Department of Labor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 71 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) Delete from section 4101 the definition of "Agriculture", including parts (a), (b) and (c) thereof.

(b) Insert after the word "commission" in the second line of section 4116 the words "for which no penalty is otherwise provided".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 21, 1955.) S.B. 371, Act 19.

**ACT 20**

An Act to Amend Section 1830 of the Revised Laws of Hawaii 1945 Relating to School Attendance.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1830 of the Revised Laws of Hawaii 1945, is hereby amended by amending paragraphs numbered 1 and 3, to read respectively as follows:

"1. Where the distance to the nearest schools exceeds four miles and no free or commercial transportation is provided;"

"3. When a competent person is employed as a tutor in the family wherein such child resides and proper instruction is thereby imparted as approved by the superintendent of public instruction;"

SECTION 2. This Act shall take effect upon its approval.

(Approved April 22, 1955.) S.B. 136, Act 20.

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**ACT 21**

An Act Relating to the Receipt, Management, and Expenditure of Private Moneys and Gifts by the Department of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. A new section is hereby added to chapter 27 of the Revised Laws of Hawaii 1945, to read as follows:

"Sec. [1716.01] Gifts. The commissioners are authorized to receive and manage moneys or other property, real, personal, or mixed, which may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for the purposes of the department. All such moneys received by or on behalf of the department shall be paid into the territorial treasury, and all such moneys are appropriated for the use of the department. The commissioners shall cause to be kept suitable books of accounts wherein shall be recorded each gift, the essential facts of its management, and the expenditure of the income."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 22, 1955.) S.B. 740, Act 21.

**ACT 22**

An Act to Repeal Section 12915 of the Revised Laws of Hawaii 1945, Relating to Powers and Duties of the Secretary of the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 12915 of the Revised Laws of Hawaii 1945 is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 23, 1955.) S.B. 382, Act 22.

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**ACT 23**

An Act Repealing Sections 1098 and 1099 of the Revised Laws of Hawaii 1945, Relating to the Breeding and Keeping of Rabbits and Belgian Hares, and Providing a Penalty therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Sections 1098 and 1099, Revised Laws of Hawaii 1945, are hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 23, 1955.) S.B. 563, Act 23.

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**ACT 24**

An Act to Amend Chapter 15, Revised Laws of Hawaii 1945, as Amended, Relating to the Employees' Retirement System of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 15, Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending subsection 5 of section 708 thereof to read as follows:

"5. Accidental disability benefit. Upon application of a member, or of the head of his department, any member who has been totally and permanently incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, through no negligence on his part, shall be retired by the board; provided that the medical board shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 25, 1955.) S.B. 258, Act 24.

**ACT 25**

An Act to Amend Section 4114 of the Revised Laws of Hawaii 1945, as Amended, Relating to Collection of Wages by the Director of Labor and Industrial Relations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4114, Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting for the words "three hundred dollars" appearing in subsection (d) thereof, the symbol and figures "\$500".

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved April 26, 1955.) S.B. 386, Act 25.

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**ACT 26**

An Act to Amend Chapter 76 of the Revised Laws of Hawaii 1945, as Amended, Relating to Payment of Wages.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 76 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered and to read:

"Sec. [4381.01.] **Injunction for failure to pay wages.** If any judgment obtained by the director of labor and industrial relations against an employer for nonpayment of wages remains unsatisfied for a period of thirty days after the time to appeal therefrom has expired and no appeal is pending, or, after such judgment has been finally affirmed on appeal, the director may institute proceedings in the name of the Territory in the circuit in which such employer has his principal place of business to compel such employer to cease doing any business until such judgment has been satisfied."

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved April 26, 1955.) S.B. 389, Act 26.

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**ACT 27**

An Act to Amend Act 64 of the Session Laws of Hawaii 1947, as Amended, Relating to Health and Safety in Industry and Places of Employment, Including the Powers and Personnel of the Division of Industrial Safety.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 64 of the Session Laws of Hawaii 1947, as amended, is hereby further amended in the following respects:

(a) By amending section 1 (Sec. 4390.01) thereof to read:

"(Sec. 4390.01) Section 1. **Definitions.** When used in this Act:

'Commission' means the commission of labor and industrial relations.

'Bureau' means the bureau of workmen's compensation.

'Director' means the director of labor and industrial relations.

'Division' means the division of industrial safety.

'Appeal board' means the labor and industrial relations appeal board.

'Employer' means:

(a) The Territory and every territorial agency;

(b) Each county, city and county, and all public and quasi public corporations and public agencies therein;

(c) Every person which has any natural person in service;

(d) The legal representative of any deceased employer;

and shall also include every person having direction, management, control or custody of any employment, place of employment, or any employee.

'Employee' means every natural person who is required or directed by any employer to engage in any employment, or to go to work or be at any time in any place of employment.

'Place of employment' means any place, and the premises appurtenant thereto, where employment is carried on, except a place the safety jurisdiction over which is vested by law in any territorial or federal agency other than the division.

'Employment' includes the carrying on of any trade, business, occupation or work, including all excavation, demolition and construction work, or any process or operation in any way related thereto, in which any person is engaged to work for hire except domestic service in or about a private home.

'Safe' and 'Safety' as applied to an employment or place of employment mean such freedom from danger to employees as the nature of the employment reasonably permits.

'Safety device' and 'safeguard' shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger."

(b) By amending section 2 (Sec. 4390.02) thereof to read:

"(Sec. 4390.02) Section 2. **Division of industrial safety.** There shall be within the bureau of workmen's compensation of the department of labor and industrial relations a division of industrial safety conducted under the control of the director of labor and industrial relations."

(c) By adding a new section following section 3 (Sec. 4390.03), to be appropriately numbered and to read:

"(Sec. [4390.0301.]) Section [3-A.] **Oaths and subpoenas.** The division shall have the same powers respecting the administering of oaths, compelling the attendance of witnesses, the production of documentary evidence, and examining or causing to be examined witnesses as are possessed by the circuit judge at chambers, and may take depositions and certify to official acts. The circuit court of any circuit upon application by the division shall have power to enforce by proper proceedings the attendance and testimony of any witness so subpoenaed. Subpoena and witness fees and mileage in such cases

shall be the same as in criminal cases in the circuit courts. Necessary expenses of or in connection with any such hearings or investigations shall be payable from the funds appropriated for expenses of administration of the bureau.

No person shall be excused from attending or testifying or producing material, books, paper, correspondence, memoranda and other records before the division or in obedience to subpoena on the grounds that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individuals so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying."

(d) By inserting a new paragraph at the beginning of section 4 (Sec. 4390.04) thereof, which shall read:

"Every employer shall furnish employment and a place of employment which are safe for the employees therein. No employer shall require or permit any employee to go or be in any employment or place of employment which is not safe."

(e) By amending section 5 (Sec. 4390.05) thereof to read as follows:

"(Sec. 4390.05) Section 5. **Safety orders** Whenever the division finds that any employment or place of employment or the operation of any machine, device, apparatus or equipment is not safe, or that any practice, means, method, operation or process employed or used in connection therewith is unsafe or does not afford adequate protection to the life and safety of employees in the employment, the division may make an order relative thereto which is necessary to render the employment or place of employment safe and protect the life and safety of employees therein. The division may in the order direct that, in the manner and within a time specified, such additions, repairs, improvement or changes be made and such safety devices and safeguards be furnished, provided and used as are reasonably required to render the employment or place of employment safe. It shall be the duty of the employer to obey and observe all safety orders.

The division may, upon the application of any employer or other person affected thereby, grant such time as may reasonably be necessary for compliance with any order. Any person affected by an order may petition the division for an extension of time, which may be granted if the division finds it necessary."

(f) By amending Section 6 (Sec. 4390.06) thereof to read:

"(Sec. 4390.06) Section 6. **Prohibition of use.** Whenever in the opinion of the division a place of employment, machine, device, apparatus, or equipment or any part thereof is in an unsafe condition or is not properly guarded or is dangerously placed, the use thereof shall be prohibited by the division, and an order to that effect shall be posted therein or attached thereto and a copy thereof delivered



to the employer or his agent. Such order shall be removed: (1) When a determination has been made by the division that the place of employment, machine, device, apparatus, or equipment is made safe and the required safeguards or safety devices are provided for; and (2) by and authorized representative of the division."

(g) By inserting a new section following section 6 (Sec. 4390.06) thereof, to be appropriately numbered and to read:

"(Sec. [4390.0601.]) Section [6-A.] **Appeals.** A safety order or an order prohibiting use issued by the division shall be final and conclusive against the employer unless the employer, within twenty days after a copy of such order is received by him, petitions the appeal board for a review thereof. After hearing, the appeal board may set aside the order or continue it upon such terms and conditions as may be deemed necessary. The filing with the appeal board of a petition for review shall not stay or suspend the operation of the order, and no stay shall be granted by the appeal board pending its decision on the petition."

(h) By amending section 7 (Sec. 4390.07) thereof to read:

"(Sec. 4390.07) Section 7. **Judicial review.** A safety order or an order prohibiting use issued by the appeal board shall be final and conclusive against the employer unless the employer, within twenty days after a copy of such order is received by him, files a petition for review thereof with the circuit judge of the circuit in which such place of employment, machine, device, apparatus or equipment is situated or such practice, means, method, operation or process is employed. The filing of a petition for review shall not of itself stay or suspend the operation of such order, but a stay may be granted by the court upon terms and conditions which it by order directs. The hearings on review shall be de novo and the division shall be deemed a party to any such proceedings. The court shall give precedence to such proceedings over all other civil cases."

(i) By amending section 8 (Sec. 4390.08) thereof to read:

"(Sec. 4390.08) Section 8. **Injunction.** Whenever the condition of any employment or place of employment, or the operation of any machine, device, apparatus or equipment, or any practice, means, method, operation or process employed or used constitutes an imminent hazard to the life or safety of any person, the division may apply to the circuit court of the circuit in which such place of employment, machine, device, apparatus or equipment is situated or such practice, means, method, operation or process is employed for an injunction restraining the use or operation thereof until such use or operation is made safe.

The application to the circuit court accompanied by an affidavit showing that such use or operation exists in violation of an order of the division and constitutes an imminent hazard to the life or safety of any employee, and accompanied by a copy of the order applicable thereto, shall warrant, in the discretion of the court, the immediate granting of a temporary restraining order. No bond shall be required from the division as a prerequisite to the granting of a restraining order."

(j) By adding two new sections at the end of the Act, to be appropriately numbered and to read:

"(Sec. [4390.11.] Section [10.] **Personnel.** There shall be employed in the division not less than two industrial safety engineers and five industrial safety inspectors, with one industrial safety inspector regularly located in each of the counties of Hawaii, Maui, and Kauai, and the remainder of such personnel shall be assigned work in the city and county of Honolulu or in whatever county the director finds to be necessary and proper."

"(Sec. [4390.12.] Section [11.] **Separability.** If any phrase, clause, sentence, subsection, section, provision or part of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares that it would have passed this Act, and each phrase, clause, sentence, subsection, section, provision or part thereof, irrespective of the fact that any one or more other phrases, clauses, sentences, subsections, sections, provisions or parts be declared unconstitutional or invalid."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1955.) H.B. 15, Act 27.

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## ACT 28

An Act to Amend Section 1052 of the Revised Laws of Hawaii 1945 Relating to the Power and Authority to Make Rules and Regulations by the Board of Agriculture and Forestry, Including Therein Rules and Regulations Governing the Control and Eradication of Transmissible Diseases of Animals.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1052 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 1052. **Rules and regulations.** The board shall have power and authority to make rules and regulations, and to amend the same from time to time in its discretion, subject to the approval of the governor, for and concerning the inspection, quarantine, disinfection or destruction, either upon introduction into the Territory, or at any time or place within the Territory, of animals and the premises and effects used in connection with such animals. Included therein may be rules and regulations governing the control and eradication of transmissible diseases of animals, and rules and regulations governing the transportation of animals between the different islands of the Territory and along the highways thereof, and also rules and regulations requiring the owners and masters of any boat or vessel calling at any port in the Territory and engaged in transportation of livestock, and the managers and agents of railway and trucking companies carrying livestock within the Territory, to make reports of the number and class of livestock carried, names of owners and con-

signees, the places to and from which such livestock is shipped, the manner of handling such livestock, the number of deaths or injuries to livestock occurring in transit or while being loaded or unloaded, with the causes of such deaths or injuries and all other matters which may be deemed necessary by the board for a full and complete record of such shipping and handling of livestock. The board shall also have power and authority to prohibit the importation into the Territory from any foreign country, or other parts of the United States, or from one island within the Territory to another island therein, or to one locality from another locality on the same island, of animals known to be infected with a contagious, infectious or communicable disease or known to have been exposed to any such disease.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1955.) S.B. 541, Act 28.

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### ACT 29

An Act Amending Sections 1241.01 and 1241.02 of the Revised Laws of Hawaii 1945, Relating to Licenses for the Taking of Introduced Freshwater Fish.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1241.01 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 1241.01. Introduced freshwater game fishing; license.** No person, excepting children below nine years of age, shall fish for, take or catch any introduced freshwater game fish without first procuring a license, pursuant to the provisions of this Act. Children exempt by this section may fish provided they are accompanied by a licensed person."

SECTION 2. Section 1241.02 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 1241.02. License; application; fees; restrictions.** The licenses required by section 1241.01 and badges shall be issued by agents of the board of commissioners of agriculture and forestry upon written application in such form as may be prescribed by the board together with payment of a fee as hereinafter prescribed. The application shall require a statement under oath of the applicant's name, address, domicile or residence, length of residence in the Territory, age, race, height, weight, and color of hair and eyes. All licenses and badges shall expire and become void on June 30, following the date of issuance, except the tourist license and badge which shall expire and become void 30 days after the date of issuance. A duplicate license or badge may be issued upon affidavit that the original license or badge has been lost or destroyed and upon the payment of fifty cents.

The fee schedule for licenses and badges shall be as follows:

- (a) All minors between 9 and 15 years of age, \$1.00 each;
- (b) A resident of the Territory for at least one year, and over 15 years of age, \$2.50;

(c) Persons not qualifying under (b) but over 15 years of age, \$5.00, except that,

(1) Any member of the armed forces of the United States on active duty in the Territory whether qualifying as a resident under (b) or not, and the spouse and children 15 years of age and over of said member, \$2.50.

(2) Tourist license which is valid for only 30 days from the date of issue, \$2.50.

No person to whom a license or badge has been issued under the provisions of this section shall permit any other person to carry, display or use such license or badge for any purpose. Every person to whom a license or badge has been issued under the provisions of this section shall display the badge while fishing or show the license upon demand of any officer authorized to enforce the fish and game laws of the Territory, and any person who fails to do so shall be guilty of a violation of this Act.

The board of commissioners of agriculture and forestry may upon written application issue a permit to a club or group of minors, not less than five in number, for unlicensed fishing where such activity will be supervised by responsible adults. All adults accompanying such excursions, however, must themselves be licensed. The application must state the area to be visited, the dates for such an excursion, the name of the organization or group, and must be signed by an adult advisor of such group. Such permits shall expire and become void 30 days after issuance. The board shall have the authority to determine other terms and conditions of such permits.

Where a bag limit is specified for the catching of freshwater fish, each licensee may take only one bag per day. This restriction to one bag applies to each minor participating in unlicensed group excursions for which permits have been issued under this section. The catch of a child below the age of nine years shall be deemed part of the catch of the licensed adult accompanying him."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1955.) S.B. 543, Act 29.

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### ACT 30

An Act Amending Section 1011.03 of the Revised Laws of Hawaii 1945, Relating to Hunting License Fees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1011.03 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the third sentence ending with a semicolon in the second paragraph thereof and inserting the following in lieu thereof so as to read:

"The fee shall be (a) five dollars (\$5.00) for any person who has resided in the Territory for one year or longer, or who is a member of the armed forces of the United States on active duty and the spouse and children thereof;";

SECTION 2. This Act shall take effect upon its approval.

(Approved 26, 1955.) **S.B. 544, Act 30.**

### ACT 31

An Act to Amend Chapter 72 of the Revised Laws of Hawaii 1945, as Amended, Relating to Apprenticeship.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 72 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By deleting from the first line of the second paragraph in section 4143 the words "and supplemental".

(b) By deleting from the last line of the first paragraph in section 4145 the word "class".

(c) By deleting from subsection (3) of the standards for apprenticeship agreements in section 4145 the words "and supplemental".

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved April 26, 1955.) **S.B. 387, Act 31.**

### ACT 32

An Act to Amend Chapter 6 of the Revised Laws of Hawaii, as Amended, by Adding a New Section 226.01, Providing a Two-Hour Election Day Leave for Employees Entitled to Vote.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 6 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new section 226.01 to follow after section 226 and to read as follows:

**"Sec. 226.01. Employees entitled to leave on election day for the purpose of voting.** Any person eligible and duly registered to vote at a primary, general or special election, shall, on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed for a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls; and such voter shall not because of so absenting himself be liable to any penalty, nor shall any deduction be made on account of such absence from his usual salary or wages; **provided,** however, that the foregoing shall not be applicable to any employee whose hours of employment are such that he has a period of two consecutive hours (excluding any lunch or rest periods) between the time of opening and closing the polls when he is not working for his employer; **provided further,** however, that should any such employee fail to vote after taking time off for that purpose, the employer, upon verification of that fact, may make appropriate deductions from the salary or wages of such employee for the period during

which such employee is hereunder entitled to absent himself from his employment.

Any person, business, including any agricultural enterprise, or corporation who shall refuse to an employee the privileges hereby conferred, or shall subject an employee to a penalty or deduction of wages because of the exercise of such privilege, or who shall directly or indirectly violate the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than three hundred dollars."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1955.) **H. B. 902, Act 32.**

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### ACT 33

An Act to Amend Section 13109.05 of the Revised Laws of Hawaii 1945, Relating to Employees of the Council on Veterans' Affairs.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 13109.05 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 13109.05. The council shall have the power to appoint a director who shall serve as the executive administrative officer subject to the pleasure of the council and who shall be specifically exempt from the provisions of the civil service and classification requirements.

The council may hire such other personnel as may be necessary and shall define their respective duties, subject to all civil service and classification requirements.

The director, as well as all employees and personnel of the council shall be either veterans, wives of veterans, or widows of deceased veterans who have not subsequently remarried non-veterans."

SECTION 2. All present employees of the Council on Veterans' Affairs as of the effective date of this Act shall be continued in their employment and included within the territorial civil service system, without loss of vacation allowances, service credits, and other rights and privileges, and shall be covered by the provisions of chapters 2 and 3, Revised Laws of Hawaii 1945, as amended, without the necessity of qualifying by examination for certification as regular employees for positions held by them at the time of the effective date hereof.

SECTION 3. This Act shall take effect upon its approval.

(Became effective April 22, 1955, having been approved by the legislature over the veto of the Governor.) **H.B. 111, Act 33.**

## ACT 34

An Act Amending Chapter 137 of the Revised Laws of Hawaii 1945, as Amended, Relating to Intoxicating Liquor, by Amending Section 7231.01 Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. It is the declared policy of the Territory that it is necessary to regulate and control the sale and distribution of liquor, within the Territory, for the purpose of fostering and promoting temperance in its consumption and respect for and obedience to the law. In order to eliminate conditions which tend to disrupt the orderly sale and distribution of such liquor, it is hereby declared as the policy of the Territory that the sale of liquor should be subjected to certain restrictions, prohibitions and regulations. The necessity for the enactment of the provisions of this section is, therefore, declared as a matter of legislative determination.

SECTION 2. Chapter 137 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

1. By amending section 7231.01 thereof to read as follows:

"Section 7231.01. (a) No manufacturer, or wholesaler of liquor shall sell, offer for sale, solicit any order or advertise any liquor, the container of which bears a label stating the brand or the name of the owner or producer, unless a schedule of minimum consumer resale prices for each such brand of liquor shall first have been filed with the commission, and such schedule is then in effect, except that written permission therefor may be granted by the commission for good cause shown and for reasons not inconsistent with the purposes of this section and under such terms and conditions as the commission deems necessary.

(b) (1) Such schedule shall be filed by (a) the manufacturer or wholesaler who owns such brand, if licensed by the commission, or (b) a wholesaler, selling such brand, who is appointed as exclusive agent, in writing, by the brand owner for the purpose of filing such schedule, if the brand owner is not licensed by the commission, or (c) any wholesaler, with the approval of the commission, in the event that the owner of such brand does not file or is unable to file a schedule or designate an agent for such purpose.

(2) Such schedule shall be in writing, duly verified, and filed in the number of copies and in the form required by the commission, and shall contain with respect to each brand, the brand or trade name, capacity of the container, nature of contents, age and proof where stated on the label, percentage and type of spirits where stated on the label, the minimum consumer resale price of a bottle and/or case, but not a multiple of a bottle price or a case price or a fraction of a case price. Such prices shall be uniform throughout the Territory.

(3) The first schedule shall be filed on or before a date to be fixed by the commission, which date shall not be later than the 45th day following the effective date of this section, and the prices thereon shall become effective on a date fixed by the commission, which said

date shall not be later than the first day of the calendar month following the filing thereof.

(4) Subsequent schedules and amendments to such schedules, in such form as the commission may require, shall be filed on or before the fifteenth day of the month prior to which they are to go into effect and shall become effective on the first day of the calendar month following the filing thereof.

(c) Within ten days after the filing of such schedules, or amendments, the commission shall make them or a composite thereof available for inspection by licensees, and they shall also be subject to public inspection. Each manufacturer and wholesaler shall retain in his licensed premises a copy of his filed schedules. The commission shall prescribe the method or methods by which each retailer shall be furnished a list of prices contained in each schedule in effect, and any amendments made thereto. Such list as is then in effect shall be displayed within the interior of the licensed premises where sales are made and where they can be readily inspected by consumers.

(d) No licensee authorized to sell liquor at retail shall sell, offer to sell, solicit an order for, or advertise any liquor at a price less than the minimum consumer resale price then in effect, unless written permission of the commission is granted for good cause shown and for reasons not inconsistent with the purposes of this section and under such terms and conditions as the commission deems necessary.

(e) The commission is hereby authorized to promulgate rules which are necessary:

(1) to carry out the purpose of this chapter and to prevent its circumvention by the offering or giving of any rebate, allowance, free goods, discount or any other thing or service of value;

(2) to permit the withdrawal of, and addition to, a deletion from, or an amendment of any schedule or a modification of prices therein, when not inconsistent with the purposes of this section, whenever necessary to avoid practical difficulties or unnecessary hardships to any licensee affected by this section or because of acts or circumstances beyond the control of such licensee, and under such terms and conditions as are necessary to carry out the purposes of this chapter;

(3) to permit the sale at a price less than the minimum consumer resale price of liquor which is damaged or deteriorated in quality, or the closeout of a brand for the purpose of discontinuing its sale, under such terms and conditions as are necessary to carry out the purposes of this chapter;

(4) to permit the sale by a retailer of a brand of liquor for which a schedule of minimum consumer resale prices has not been and cannot be filed whenever necessary to avoid practical difficulties or unnecessary hardships to any licensee affected by this chapter or because of acts or circumstances beyond the control of such licensee, and under such terms and conditions as are necessary to carry out the purposes of this chapter.

(f) For the violation of any provision of this section or of any rule duly promulgated under this section, the commission may sus-



pend, cancel or revoke a license as follows: For a first offense, not exceeding ten days suspension of license; for a second offense, not exceeding thirty days suspension of license; and for a third offense, may suspend, cancel or revoke the license."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 28, 1955.) H.B. 56, Act 34.

### ACT 35

An Act to Amend Act 280 of the Session Laws of Hawaii 1953, Relating to Schools in the County of Maui.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 280 of the Session Laws of Hawaii 1953 is hereby amended by substituting for the word "cafetorium" in Section 2 (a), part 7 (f) thereof the word "cafeteria".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1955.) H.B. 124, Act 35.

### ACT 36

An Act to Amend Chapter 328 of the Revised Laws of Hawaii 1945, the Civil Defense and Emergency Act, by Amending Section 13198, Relating to the Expiration Date thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 328 of the Revised Laws of Hawaii 1945, as added by Act 268, Series E-253, Session Laws of Hawaii 1951, the Civil Defense and Emergency Act, is hereby amended by amending section 13198 of said chapter 328 by deleting the date "June 30, 1955" which appears in line 5 thereof and substituting therefor the date "June 30, 1957".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1955.) H.B. 437, Act 36.

### ACT 37

An Act to Authorize Stand-by Time Pay for Government Workers Required to Report to Work and Unable to Work Because of Inclement Weather or Other Conditions beyond the Employees' Control.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Whenever any government employee is required to report to work and reports to work, but is unable to work because of inclement weather, breakdown of machinery, or other conditions beyond the employee's control, he shall be paid a minimum of two hours' pay for that day.

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved April 28, 1955.) H.B. 441, Act 37.

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### ACT 38

An Act to Amend Chapter 121, as Amended, of the Revised Laws of Hawaii 1945, Relating to Pensions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 121, as amended, of the Revised Laws of Hawaii 1945 is hereby further amended by amending section 6192.03 thereof to read:

"Sec. 6192.03. **Restrictions as to personnel.** The provisions of this Act shall not apply to any person who is in the service or employment of the territory or any county on or after July 1, 1953, but shall apply to per diem workers and former per diem workers who joined the employees' retirement system prior to January 1, 1952."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1955.) H.B. 572, Act 38.

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### ACT 39

An Act Relating to the Employment, Compensation and Retirement of Edward A. K. Williams.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Edward A. K. Williams may be continued in his present position in the service of the city and county of Honolulu after he reaches the age of seventy years. He may be employed under contract, and at the rate of pay which, added to any retirement benefit he might receive or might be receiving, will equal the rate of pay being received by him immediately prior to age seventy, until otherwise provided by the Legislature of the Territory of Hawaii.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 28, 1955.) H.B. 579, Act 39.

**ACT 40**

**An Act Relating to the Powers of the District Magistrates to Subpoena and Compel the Attendance of Witnesses before District Courts, and Amending Section 9675 of the Revised Laws of Hawaii 1945, as Amended.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The first paragraph of Section 9675 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 9675. Powers; witness fees.** The district magistrates shall have power to administer oaths, to perpetuate testimony under commissions issued to them from other courts, and to issue commissions for the perpetuation of testimony to be used in controversies pending before them, to grant continuances of proceedings before them, to subpoena, and compel the attendance of witnesses within the circuit where the district court is situated; to subpoena and compel the attendance of witnesses without the circuit in which the district court is situated, **provided** that such subpoena be endorsed with proper words of authority from the circuit judge of the judicial circuit in which such district court is situated; to render final judgments, to alter any judgment within ten days following the date of its rendition for good cause shown by any party and after notice given to the opposite party, to enforce judgment and to punish contempts according to law; and to issue garnishee summons which shall be operative as to the garnishee throughout the judicial circuit in which the district court issuing the same is situated; in a criminal case, to alter, set aside or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of such sentence."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 28, 1955.) **H.B. 584, Act 40.**

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**ACT 41**

**An Act Relating to the Employment, Compensation and Retirement of Certain Public Officer and Employee and Her Position.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Olga Sezenevsky may be continued in her present position in the service of the Territory of Hawaii after she reaches the age of seventy years. She shall be employed under contract, and at the rate of pay which, added to any retirement benefits that she might receive or might be receiving, will equal the rate of pay being received by her immediately prior to age seventy, until otherwise provided by the legislature of the Territory of Hawaii.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 28, 1955.) **H.B. 586, Act 41.**

**ACT 42**

An Act Relating to the Control of Predators on Game Management Areas and Forest Reserves.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Definition. For the purposes of this Act, "board" means the board of commissioners of agriculture and forestry, "predators" means any animal destructive of game by nature of its predatory habits such as mongooses, cats, dogs, rats or other animals that may have predatory tendencies.

**SECTION 2.** On any game management area or forest reserve or other lands under the jurisdiction of the board of commissioners of agriculture and forestry predators deemed harmful to game by officers or agents of the board may be destroyed by any means deemed necessary by the board or any of its officers or agents.

**SECTION 3.** Posting. Where the predators are dogs and the method of destruction may endanger pets or hunting dogs, all major points of entrance into the area where the predators are to be destroyed shall be posted with signs indicating that a program of predator destruction in the area is in progress. Any predator may be destroyed in a posted area without claim or penalty whether or not such predator is the property of some person.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 28, 1955.) **H.B. 607, Act 42.**

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**ACT 43**

An Act to Amend Act 294 of the Session Laws of Hawaii 1949, Relating to the Territorial Commission on Children and Youth.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Act 294 of the Session Laws of Hawaii 1949 is hereby amended by amending the third and fourth sentences of section 3 thereof to read as follows:

"Each county committee shall include the judge of the juvenile court, the county administrator of the department of public welfare, the county health officer of the board of health, a member of the board of supervisors, the district superintendents of the department of public instruction, a representative of the department of public instruction responsible for pupil guidance, a member of the recreation board or commission and a member of the planning board or commission, where such exist, the director of the county health unit where one exists, and one member of the territorial commission on children and youth, residing within such county, who shall act in a liaison capacity between the territorial commission and such committee. The other members shall be selected upon the basis of their interest in the needs of children and youth, their effectiveness in promoting child welfare within the county, and their knowledge of local conditions, and the chairman shall be elected annually from the

non-official members of the committee.”

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 28, 1955.) **H.B. 920, Act 43.**

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### ACT 44

An Act Relating to the Employment, Compensation and Retirement of Robert V. Kailianu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Robert V. Kailianu may be continued in his present position in the service of the county of Hawaii after his seventieth birthday. He shall be employed under contract, and at the rate of pay which, added to any retirement benefit he might receive or might be receiving, will equal the rate of pay being received by him immediately prior to age seventy, until otherwise provided by the legislature of the Territory of Hawaii.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 28, 1955.) **H.B. 965, Act 44.**

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### ACT 45

An Act Relating to School Principals in the Department of Public Instruction, and Adding Section 1764 to Chapter 28 of the Revised Laws of Hawaii, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 1764 is hereby added to chapter 28 of the Revised Laws of Hawaii 1945, as amended, to read as follows:

**“Sec. 1764. Principals; transfers, reduction in staff.**

(a) A principal in any of the public schools of the Territory, who has been legally employed for a period of five or more years in the service of the department or has less than ten years remaining to qualify for retirement, when assigned as principal to a school with a smaller number of teachers, shall continue to be paid the differential that he received during the last year at the former school until the number of teachers under his supervision or amendments to the provisions of section 1759 entitle him to an increase in salary.

(b) A principal with more than five years of experience in the department, when assigned to a newly established school with a smaller number of teachers, shall continue to be paid a differential based on the rating to which he was entitled at the former school until the number of teachers at his newly established school entitles him to an increase under the provisions of section 1759. For the purposes of this section, a newly established school is defined as one which was established within three years of the transfer of a principal to such school.

(c) A principal, assigned to the same school, shall not have his differential rating reduced because of a reduction in the number of teachers under his supervision."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1955.) H.B. 85, Act 45.

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### ACT 46

An Act to Amend Section 1756 of the Revised Laws of Hawaii 1945, Relating to the Demotion of Teachers in the Department of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1756 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 1756. Teachers; demotion. If any person having a certificate from the department to teach in any of the public schools of the Territory, who has been legally employed for a period of twenty-five or more years in the service of the department or has less than ten years remaining to qualify for retirement shall, without his written request or consent, or upon request due to physical disability certified to by a competent physician appointed by the department, be demoted to any position paying less than the position from which demoted, his salary plus any differential that he may be receiving or entitled to receive shall not be reduced, any salary or classification schedule to the contrary notwithstanding."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1955.) H.B. 163, Act 46.

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### ACT 47

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, Relating to Real Property Tax Exemption.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5151 of the Revised Laws of Hawaii 1945, is hereby amended by amending item 38 thereof, to read as follows:

"38. The property of the Korean National Association of Hawaii, used as a home for aged and indigent Korean men, situated at 2756 Rooke Avenue, Honolulu, so long as the same is used exclusively for such purpose."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1955.) H.B. 317, Act 47.

### ACT 48

An Act Relating to the Form and Execution of Territorial Bonds, and Amending Sections 5910 and 5944 of the Revised Laws of Hawaii, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5910 of the Revised Laws of Hawaii 1945, as amended by Act 218 of the Session Laws of Hawaii 1947, is hereby further amended so that the same shall read as follows:

**"Sec. 5910. Form and execution of bonds.** Bonds issued under the provisions of this sub-title shall be in such form as the treasurer may determine. They may be registered, coupon, or registered as to principal only. They shall be lithographed or engraved, shall be signed by the treasurer of the Territory, shall bear a lithographed or engraved facsimile of the signature of the auditor of the Territory, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the treasury department of the Territory. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the treasurer of the Territory."

SECTION 2. Section 5944 of the Revised Laws of Hawaii 1945, as enacted by Act 74 of the Session Laws of Hawaii 1947, is hereby amended so that the same shall read as follows:

**"Sec. 5944. Execution of bonds.** Bonds issued pursuant to this part shall be executed by the head of the department and sealed with the seal of the department. Further, they shall be countersigned by the auditor of the Territory, or in lieu thereof shall bear a lithographed or engraved facsimile of the signature of the auditor of the Territory. In the case of a department having a governing body, the member thereof who is the chairman or other titular head shall, for the purposes hereof, be the head of the department."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 2, 1955.) S.B. 484, Act 48.

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### ACT 49

An Act Relating to the Form and Execution of County and Municipal Bonds, and Amending Section 6053 of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6053 of the Revised Laws of Hawaii 1945 is hereby amended so that the same shall read as follows:

**"Sec. 6053. Form of bonds.** All bonds issued under the provisions of this chapter shall be lithographed or steel engraved, shall be signed by the treasurer of the county, shall bear the lithographed or engraved facsimile signatures of the mayor or chairman of the board of supervisors and the auditor, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the county. In-

terest coupons shall bear a lithographed or engraved facsimile of the signature of the treasurer of the county."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 2, 1955.) **S.B. 596, Act 49.**

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### ACT 50

An Act to Amend Section 8546.07 of the Revised Laws of Hawaii 1945, Relating to Uniform Individual Accident and Sickness Policy Provisions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 8546.07 of the Revised Laws of Hawaii 1945 is amended by amending subsection 9 thereof to read:

"9. Violation. Any person, partnership or corporation wilfully violating any provision of this Act or order of the commissioner made in accordance with this Act, shall forfeit to the Territory a sum not to exceed \$1,000 for each such violation, which may be recovered by a civil action. The commissioner may also suspend or revoke the license of an insurer or agent for any such wilful violation."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 2, 1955.) **S.B. 767, Act 50.**

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### Act 51

An Act to Amend Chapter 74 of the Revised Laws of Hawaii 1945, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 74 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By substituting for the word "thirty" in the twenty-third line of subsection (F) of section 4251 the word "sixty", and by substituting for the words "the fifth day of February" in the forty-fourth line of said subsection the words "March first".

(2) By adding the following new paragraph to section 4272:

"If any employer fails to report with respect to the separation of an individual or the remuneration which he paid to such individual within thirty days after receipt of notice by registered mail so to do, he shall pay a penalty in the amount of ten dollars. Such penalty shall be assessed, collected, and paid into the fund in the same manner as contributions."

(3) By substituting for the words "one year" in the first line of paragraph (C) of section 4235 the words "two years."

(4) By adding the following new paragraph to section 4234:

"If any employer fails to furnish the information necessary to de-



termine whether and in what amount the claimant is entitled to benefits within the time specified by regulations of the board, the board shall make a determination upon the available information. In the absence of a showing by the employer satisfying the board that he could not reasonably comply with the board's requirements, such determination shall be final, as to the non-complying employer, as to any benefits paid prior to the week following the receipt of his report and chargeable against his account as a result of his late reporting."

(5) By amending paragraph (1) of section 4292 to read:

"(a) Any person who makes, or causes to be made by another, a false statement or representation of material fact knowing it to be false or who knowingly fails, or causes another to fail, to disclose a material fact, and as a result thereof has received any amount as benefits under this chapter to which he was not entitled shall be liable for such amount. Notice of redetermination in such cases shall specify that the person is liable to repay to the fund the amount of benefits paid to him by reason of such nondisclosure or misrepresentation, the nature of such nondisclosure or misrepresentation, and the week or weeks for which such benefits were paid."

(6) By amending section 4244 to read:

"**Sec. 4244. Payment of benefits.** Benefits shall be paid promptly in accordance with a determination or redetermination, except that no benefits shall be paid prior to the expiration of the period for appeal if the record with respect to the claim indicates that a disqualification has been alleged or may exist. If an application for reconsideration is duly made or an appeal is duly filed, benefits with respect to weeks of unemployment not in dispute and benefits payable pursuant to a determination or redetermination in any amount not in dispute shall be paid promptly regardless of any reconsideration or appeal. If a determination or redetermination allowing benefits is affirmed in any amount by the referee, such benefits shall be paid promptly regardless of any further appeal, and no injunction, supersedeas, or stay suspending the payment of such benefits shall be issued by any court, but if such decision is finally reversed, benefits shall not be paid for any subsequent weeks of unemployment involved in such reversal."

**SECTION 2.** This Act shall take effect on July 1, 1955.

(Approved May 2, 1955.) S.B. 396, Act 51.

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## ACT 52

An Act to Amend Act 163 of the Session Laws of Hawaii 1953, Relating to Priority for Claims for Wages.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Act 163 of the Session Laws of Hawaii 1953 is hereby amended by inserting after the words "payment of" in section 1 thereof the words "taxes or".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 2, 1955.) S.B. 610, Act 52.

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### ACT 53

An Act Eliminating the Requirement for Publication or Notification in the Hawaiian Language and Amending Sections 4992, 8752 and 10791 of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4992 of the Revised Laws of Hawaii 1945 is hereby amended by deleting from the nineteenth and twentieth lines thereof the words "in the English and Hawaiian languages".

SECTION 2. Section 8752 of the Revised Laws of Hawaii 1945 is hereby amended to read:

"Sec. 8752. **Enforcement by sale of animals.** If the owner of such animals, after demand and notice in writing that the lien will be enforced has been served upon him, fails to pay the amount due for the pasturing, feeding or sheltering within thirty days, the holder of the lien may cause the animals to be sold at public auction, upon notice of sale being given for fifteen days by publication in a newspaper of general circulation in the county where the animals are pastured, fed or sheltered."

SECTION 3. Section 10791 of the Revised Laws of Hawaii 1945 is amended by deleting the last sentence thereof.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 2, 1955.) S.B. 760, Act 53.

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### ACT 54

An Act to Amend Sections 7181 and 7198 of the Revised Laws of Hawaii 1945, Relating to Firearms and Ammunition.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7181 of the Revised Laws of Hawaii 1945 is amended by amending the second paragraph thereof to read:

"'Crime of violence' means any of the following crimes, namely: murder, manslaughter, rape, kidnapping, robbery, burglary, and those certain crimes set forth in sections 11053 and 11054."

SECTION 2. Section 7198 of the Revised Laws of Hawaii 1945, as amended, is further amended by substituting for the words "sell and manufacture" in line 2 thereof the words "manufacture or sell".

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1955.) S.B. 766, Act 54.

### ACT 55

An Act to Amend Section 12324.01 of the Revised Laws of Hawaii 1945, Relating to Dependent and Delinquent Children.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 12324.01 of the Revised Laws of Hawaii 1945 is amended to read:

**"Sec. 12324.01. Age limits; determination of jurisdiction.** The provisions of this chapter shall apply to any such child who is within the above prescribed age limits at the time of his arrest or apprehension or at the time a petition is filed as provided in section 12324, whichever is the earlier, notwithstanding that such child may be over the prescribed age limits at the time of the hearing and determination of the matter as above provided."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 3, 1955.) S.B. 770, Act 55.

### ACT 56

An Act Relating to Wild Birds and Prohibiting the Transportation thereof from the Territory of Hawaii to Any State, Territory, District or Possession of the United States.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 18 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section to be numbered section 1162 and to read as follows:

**"Sec. 1162. Transportation of wild birds from the Territory of Hawaii to any state, territory, district or possession of the United States prohibited; penalty.** It shall be unlawful for any person to transport or cause to be transported by any means any wild bird from any part of the Territory to any state, territory, district or possession of the United States; **provided**, however, that specimens of introduced wild birds required for scientific or educational purposes may be exported from the Territory only when authorized under permits to be issued by the board of commissioners of agriculture and forestry of the Territory. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 3, 1955.) S.B. 726, Act 56.

**ACT 57**

**An Act Amending Chapter 1 of the Revised Laws of Hawaii 1945, Relating to Common Law and Statutes.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 1 of the Revised Laws of 1945 is hereby amended in the following respects:

(a) By amending section 4 to read:

**"Sec. 4. Laws not retrospective.** No law has any retrospective operations, unless otherwise expressed or obviously intended."

(b) By amending section 5 to read:

**"Sec. 5. Persons and property subject to laws.** The laws are obligatory upon all persons and property within the jurisdiction of the Territory."

(c) By amending section 10 to read:

**"Sec. 10. Construction of ambiguous context.** Where the words of a law are ambiguous:

(a) The meaning of the ambiguous words may be sought by examining the context, with which the ambiguous words, phrases and sentences may be compared, in order to ascertain their true meaning.

(b) The reason and spirit of the law, and the cause which induced the legislature to enact it, may be considered to discover its true meaning.

(c) Every construction which leads to an absurdity shall be rejected."

(d) By repealing sections 12 and 13.

(e) By amending section 16 to read:

**"Sec. 16. 'Person,' 'others,' 'any,' etc.** The word 'person,' or words importing persons, for instance, 'another,' 'others,' 'any,' 'anyone,' 'anybody,' and the like, signify not only individuals, but corporations, firms, associations, societies, communities, assemblies, inhabitants of a district, or neighborhood, or persons known or unknown, and the public generally, where it appears, from the subject matter, the sense and connection in which such words are used, that such construction is intended."

(f) By adding four new sections to be numbered and to read:

**"Sec. 19.01. References apply to amendments.** Whenever reference is made to any portion of the Revised Laws or of any other law of the Territory, the reference applies to all amendments thereto.

**Sec. 19.02. Severability.** If any provision of the Revised Laws or the application thereof to any person or circumstances, is held invalid, the remainder of the Revised Laws, or the application of such provision to other persons or circumstances, shall not be affected thereby.

**Sec. 19.03. Interpretation of uniform acts.** All provisions of uniform acts adopted by the Territory shall be so interpreted and construed as to effectuate their general purpose to make uniform the laws of the states and territories which enact them.

**Sec. 19.04. References inclusive.** Whenever reference is made to a series of sections in the Revised Laws by citing only the numbers of the first and last sections connected by the word 'to,' the reference includes both the first and last sections."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 3, 1955.) **S.B. 751, Act 57.**

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**ACT 58**

An Act to Repeal Sections 12377 to 12383, Inclusive, of the Revised Laws of Hawaii 1945, Relating to Married Women.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 12377 to 12383, inclusive of the Revised Laws of Hawaii 1945, are hereby repealed.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 3, 1955.) **S.B. 748, Act 58.**

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**ACT 59**

An Act to Amend Chapter 42 of the Revised Laws of Hawaii 1945, as Amended, Relating to Infectious and Communicable Diseases.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 42 of the Revised Laws of Hawaii 1945 as amended, is hereby further amended by repealing sections 2316, 2318, 2320, 2325, 2326, 2327 and 2329.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 3, 1955.) **S.B. 756, Act 59.**

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**ACT 60**

An Act to Amend Section 10003 of the Revised Laws of Hawaii 1945, Relating to Confession of Judgment.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 10003 of the Revised Laws of Hawaii 1945 is amended by substituting for the words "five hundred dollars" in the third line thereof the amount "\$1,000".

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 3, 1955.) **S.B. 768, Act 60.**

**ACT 61**

An Act to Amend Chapter 6 of the Revised Laws of Hawaii 1945, as Amended, by Amending Section 227, as Amended, and Section 232, by Repealing Sections 228 and 233, and Adding Sections 233.01 to 233.11, inclusive, Relating to Absentee Voting.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 227 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting the word "ten" for the word "five" appearing at the end of the fourth line thereof.

**SECTION 2.** The first paragraph of section 232 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 232. Prohibitions and penalty.** It shall be unlawful for any voter to make any false statements in any affidavits required under this subtitle and it shall be unlawful for any person, other than as provided by this subtitle, to open an envelope containing a ballot voted under the provisions of this subtitle, and it shall be unlawful for the inspectors of election to open any envelope containing a voted ballot and deposit the ballot contained therein in the ballot box in any manner except as provided under the provisions of section 231, and it shall be unlawful for any election official to refuse or neglect to perform any of the duties prescribed under this subtitle."

**SECTION 3.** Sections 228 and 233 of the Revised Laws of Hawaii 1945, are hereby repealed.

**SECTION 4.** Chapter 6 of the Revised Laws of Hawaii 1945, as amended, is further amended by adding thereto eleven new sections to be numbered from sections 223.01 to 233.11 inclusive, and to read as follows:

**"Sec. 233.01. Definition of absentee ballot.** The term 'absentee ballot' means an official ballot to be used by a person entitled to vote as provided by section 233.02."

**Sec. 233.02. Who may vote by absentee ballot.** Any qualified voter who will be unable to appear at his polling place during the hours of voting at any election because of absence from the island of his residence during the hours of voting of such election, may cause his vote to be cast by absentee ballot, subject to the provisions of sections 225, 227 as amended, 229, 229.01, 230 and 233.03 to 233.11, inclusive.

**Sec. 233.03. Request for absentee ballot.** Any person who may be entitled to vote by absentee ballot as provided by section 233.02 may, not more than twenty days nor less than ten days prior to the date of the election, except in the cases covered by sections 225, 227 as amended, 229.01, and 230, request of the county clerk in person or in writing an absentee ballot to be voted at the election. The request shall include any information which will facilitate the location of his voting precinct and the establishment of his right to a ballot, and the address to which he wishes his ballot forwarded.

**Sec. 233.04. No registration, when.** No registration in person shall be required of a person in military service but such person shall make and subscribe to an affidavit substantially similar to the form

set forth in section 178 and as the secretary of the Territory may prescribe, to establish fully such person's right to vote. Any duly qualified elector may challenge the acceptance of the voted ballot at the time of casting of the ballot under the provisions provided by law.

**Sec. 233.05. Affidavits.** The affidavits required pursuant to sections 229.01, 233.04, 233.07 and 233.08, shall be sworn to before any officer authorized by law to administer oaths, including commissioned officers in active service of the armed forces of the United States, the United States Coast Guard and any of the Hawaii National Guard services.

**Sec. 233.06. Delivery of ballots.** Immediately upon receipt of a request within the time limit specified in section 233.03, the county clerk shall examine the records to ascertain whether or not the voter is lawfully entitled to vote as requested, and if so, shall put immediately thereafter the name, street address, representative district number and precinct number (or designation) of the voter on a list to be kept by the county clerk for such purposes in the appropriate precincts and, as soon as official ballots are printed and available, mail (via air mail as necessary), postage prepaid, or deliver in person, if the voter appears at the office of the county clerk, an official ballot and other materials prescribed in section 233.07; **provided**, however, that any person in military service requesting a ballot shall be furnished the same as provided in this subtitle.

**Sec. 233.07. Ballot envelope; instructions covering reply envelope.** It shall be the duty of the county clerk to fold the absentee ballot in the manner specified by law for folding ballots prior to its deposit in the ballot box, and he shall enclose such ballot in an unsealed envelope to be furnished by him, which envelope shall bear upon the face thereof the name, official title and post office address of such county clerk, and upon the other side a printed affidavit which shall serve to affirm the request for an absentee ballot, identify the voter, his place of residence, his voting precinct, and affirm his right to cast a ballot, and shall be in such form as prescribed by the secretary of the Territory. In addition, the county clerk shall prepare printed instructions regarding the manner of marking and returning the absentee ballot in order that it may be counted, and shall furnish a copy of the printed instructions and information setting forth the precinct and district in which the voter is entitled to vote, and a covering reply envelope which shall bear upon the face thereof the name, official title and post office address of the county clerk and, in the lower left-hand corner, the words 'Absentee Ballot Enclosed'.

**Sec. 233.08. Marking and return of ballot; voting by absentee voter at polls prohibited.** The absentee voter shall exhibit the ballot unmarked to the county clerk or an officer authorized by law to administer oaths, including commissioned officers in active service of the armed forces of the United States, the United States Coast Guard and any of the Hawaii National Guard services, and shall thereupon and only in the presence of such officer mark the ballot, but in such manner that such officer cannot see or know how the ballot is marked, and the marked ballot shall then, in the presence of the officer, be refolded by the voter in the same folds it was received, and deposited in

the ballot envelope and securely sealed. The voter shall then complete and subscribe to the required affidavit on the ballot envelope and such officer shall then indorse his certificate upon the back of the envelope, and the ballot envelope so executed and sealed shall be enclosed in the covering reply envelope and shall be mailed or delivered to reach the county clerk issuing the absentee ballot not later than the established closing hour of business on the day before election.

No person having voted an absentee ballot pursuant to this subtitle shall be entitled to cast a ballot at the polls on election day.

**Sec. 233.09. Receipt and disposition of absentee ballots.** Upon the receipt of the envelope within the period prescribed in section 233.08 marked 'Absentee Ballot Enclosed' from any person voting under the provisions of this subtitle, the county clerk shall open it and remove the ballot envelope and examine the affidavit as to its proper execution and to the person's qualification to register as an elector and/or to vote. If the county clerk determines that the person is qualified, the ballot envelope shall be deposited unopened in a container retained for that purpose. The container shall be securely sealed except for an opening sufficient to permit deposit of ballot envelopes and shall be marked with the name and official title of the county clerk and the words 'This container holds absentee ballots and must be opened only pursuant to law'. The county clerk shall safely keep each container in his office until the day of election and at such time he shall publicly open the container, extract and segregate the ballot envelopes and deliver the said envelopes to the election inspectors concerned before balloting has ceased.

In case the affidavit or the certificate of the officer before whom it was taken is found to be insufficient or in case the signatures do not correspond, or in case the voter is not a duly qualified elector or the ballot envelope is open or has been opened and resealed, the ballot envelope shall not be opened and the county clerk shall mark across its face 'Rejected', giving the reason therefor, and shall preserve the same in the manner provided for by law.

If the ballot is received after the time fixed in section 233.08, the ballot envelope shall be indorsed by the county clerk with the day and hour of receipt and it shall be safely kept unopened by the county clerk for the period of time required for the preservation of ballots used at such election, and shall then, without being opened, be destroyed pursuant to the provisions of section 241, as amended.

If upon receiving the ballot envelope from the county clerk, it is found that the voter has already voted, the election inspectors shall immediately cancel the ballot envelope and write 'Rejected' across its face, giving the reason therefor and shall preserve the same in the manner provided for by law.

**Sec. 233.10. Death of voter prior to opening of polls.** Whenever, prior to the casting of absentee ballots, it is made to appear by due proof to the county clerk or election inspectors that any voter who has marked and forwarded an absentee ballot has died prior to the opening of the polls on the date of election, the ballot of such voter shall be disposed of in the manner provided in section 233.09 for



rejected ballots. The casting of any such ballot shall not invalidate the election.

**Sec. 233.11. Ballots; where voting machines are used.** In all precincts in which voting machines are used the provisions of sections 233.01 to 233.11 shall apply; **provided**, that the number of ballots to be printed shall be determined in the discretion of the officer charged with printing and furnishing them."

**SECTION 5.** The secretary of the Territory shall make all rules and regulations necessary for effectuating the provisions of this Act.

**SECTION 6.** This Act shall take effect upon its approval.

(Approved May 3, 1955.) S.B. 35, Act 61.

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## ACT 62

**An Act to Provide for the Licensing and Regulating of Day Care Centers.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** It shall be unlawful to operate, maintain or conduct a day care center unless licensed to do so by the department of public welfare.

**SECTION 2.** A day care center is defined as any person, association, agency or organization keeping a place for children for hire, if he, she, or it: (a) advertises or holds himself or herself or itself out as conducting a place for the care of children; or (b) has in custody or control one child or more under the age of sixteen unattended by parents or guardians for the purpose of providing such child or children with care, food, or clothing, for compensation during any part of a twenty-four hour day. The term day care center shall include day nurseries, nursery school group, day care homes, child play groups or other similar units operating under any name whatsoever.

Nothing in this Act shall be construed to cover the care of a neighbor's, relative's or friend's child or children, with or without monetary consideration, where the person does not regularly engage in such activity or where parents on a mutually cooperative basis exchange care of one another's children. This Act shall apply neither to the care of the children in their own homes, nor to any institution operated by the Territory or any political subdivision thereof, nor to any kindergarten or school determined by the department of public instruction to be subject only to its licensing authority, nor to any school attended for specialized training in specific subjects such as foreign languages, dancing, drama or music, nor to any organization whose functions are primarily athletic, social and non-custodial such as scout, YMCA, YWCA, YBA, CYO and club groups, nor to any individual who cares only for the children of another connected by marriage or by blood.

**SECTION 3.** The department of public welfare, after consultation with the department of health, the department of public instruction, and the fire marshal, shall make, prescribe, and publish such rules and regulations and minimum standards as shall be deemed necessary to protect the best interests of minor children and to carry out the purposes of this Act. The

rules and regulations when approved by the governor shall have the force and effect of law, and shall be administered by the department of public welfare.

SECTION 4. If satisfied that the applicant meets the minimum standards established pursuant to section 3, the department of public welfare shall grant such applicant a license for the operation of a day care center which license shall be valid for one year unless sooner revoked. Where the activities of the applicant fall within the licensing requirements of the department of public instruction and the provisions of this Act, a license shall be required from both the department of public instruction and the department of public welfare. A temporary permit may be issued for a period of six months at the department's discretion to any applicant who is temporarily unable to conform to all of the minimum standards. Renewal of such temporary permit shall be left to the department's discretion. Licenses and permits shall be conspicuously posted on the licensed premises.

SECTION 5. Any license or temporary permit issued hereunder may be suspended or revoked by the department of public welfare after due notice and hearing, provisions for which shall be made in the rules and regulations. However, upon a determination by the department that conditions exist which constitute an imminent danger to the health, welfare or safety of the children cared for, a license or temporary permit may be immediately suspended pending a hearing by the department as herein provided. The department of public welfare, in its discretion, may reissue a license or temporary permit which has been suspended or revoked upon satisfying itself that minimum standards have been or will be met.

SECTION 6. The department of public welfare shall cause the licensee's premises to be visited and inspected as frequently as it shall deem necessary for the proper operation, sanitation and safety thereof. Such visits and inspections shall be made at least once annually. Every center licensed hereunder shall be open to visitation and inspection by representatives of the department of public welfare, the department of public instruction, and the department of health, and by the fire marshal at all times.

SECTION 7. Every licensee shall keep such records and shall file with the department of public welfare such reports as the rules and regulations may require. All records and all information obtained concerning children or their parents or relatives shall be kept confidential by the licensee and by members of any department herein named.

SECTION 8. Any person violating any provision of this Act or any rule or regulation made pursuant hereto shall be fined not more than \$200.

SECTION 9. This Act shall take effect upon its approval; provided, however, that Sections 1, 4 and 8 shall not apply until six months after the rules and regulations, established pursuant to Section 3, have been approved by the governor.

(Approved May 3, 1955.) S.B. 311, Act 62.

**ACT 63**

**An Act to Amend Section 356 of the Revised Laws of Hawaii 1945, Relating to Printing, Binding and Stationery Work.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 356 of the Revised Laws of Hawaii 1945 is amended by amending the last paragraph thereof to read:

"No person other than a citizen of the United States, or eligible to become such a citizen shall be employed in the execution or performance of any contract for printing, binding or stationery work for the Territory, or any county, or other political subdivision thereof."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 4, 1955.) H.B. 1143, Act 63.

**ACT 64**

**An Act Relating to Real Property Taxes, Making Amendments in Respect of Home Exemptions, Claims therefor, Information Relating thereto, Allowance of Exemptions, Assessment of Property Not Entitled to Exemption, and Penalties for Violation of Requirements.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 5141 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting from the end of the first sentence (as amended by Act 64, Special Session Laws of 1949) the words and figures "section 5147." and inserting in lieu thereof "sections 5147 and 5149.01."

**SECTION 2.** Section 5147 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by changing the period at the end of the first sentence thereof to a comma, and adding thereafter the following proviso:

"provided, however, that section 5149.01 shall govern the filing of claims for home exemption under section 5149."

**SECTION 3.** There is hereby added to chapter 94 of the Revised Laws of Hawaii 1945 a new section to be numbered 5149.01 and to read as follows:

"Sec. 5149.01. **Claims for home exemption.** (a) In order to obtain an exemption under section 5149 the claimant shall file with the assessor a return of the property involved, containing a claim for the exemption. The return and claim for exemption shall be in such form and contain such information as shall be prescribed by the commissioner. A return and claim for exemption, filed in the calendar year 1956 or thereafter, when once filed shall have continuing effect as a claim for the exemption, until (1) the exemption is disallowed, or (2) the assessor voids the return and claim after first giving notice (either to the claimant in the manner provided by section 5158 for a notice of assessment, or to all claimants in the manner provided by

section 5155 for an order requiring the filing of returns) that the return and claim or returns and claims on file will be voided on or before a day certain, which date shall be not less than thirty days after the date of the notice, or (3) the claimant makes the report required by subsection (d), whichever is the earliest.

(b) No exemption under section 5149 shall be allowed unless there is on file, on January 31 of the year for which such exemption is claimed, a return and claim as prescribed by subsection (a) and unless the same is in effect on said day.

(c) A claimant may file a return and claim for exemption even though there is on file and in effect a return and claim covering the same premises, or a return and claim previously has been filed and has been disallowed or otherwise voided. However, no such return and claim shall be filed if it is identical with one already on file and having continuing effect. The report required by subsection (d) may be accompanied by or combined with a new return and claim.

(d) Whenever a person has filed a return and claim for exemption under section 5149 covering any premises it shall be his duty, in the event he shall cease to be the owner, lessee or purchaser of the premises, as the case may be, or shall cease to occupy the same, or in the event of any change in the facts theretofore reported concerning the use or renting of the premises, or the buildings or other improvements thereon, to make a report thereof to the assessor within thirty days after any such event occurs. Such report shall have the effect of voiding the return and claim for exemption previously filed, as stated in subsection (a) (3). The report shall be sufficient if it identifies the property involved and states that the claim for exemption previously filed may be voided.

In the event the property comes into the hands of a fiduciary who is answerable under sections 5143 and 5156, the fiduciary shall make the report required by this subsection within thirty days after his assumption of his fiduciary duties, or within the time otherwise required, whichever is later.

Any person who is under a duty of making a report as required by this subsection, who shall fail to make the same within the time required by law, shall be liable to a civil penalty, recoverable in the manner provided for the collection of taxes other than property taxes; the provisions of section 5475 are hereby made applicable. The amount of this penalty shall be \$100, or the amount of the taxes on the property computed without exemption under section 5149 as of January 1 of the year in which occurs the last day allowed for filing such report, whichever is the lesser. In addition to this penalty, the taxes, penalties and interest shall be collected as property taxes and shall be a lien on the property as in other cases.

(e) If the assessor is of the view that, for any tax year, the exemption should not be allowed or should not have been allowed, in whole or in part, he may at any time within five years of January 1 of that year disallow the exemption for that year, in whole or in part, and may add to the assessment list for that year the amount of value involved, in the manner provided by section 5164 for the assessment of omitted property; provided, that if an assessment or addition un-

der this subsection is made after April 30 of the tax year the taxes on the amount of value involved in the assessment or addition so made shall not be a lien under section 5167 but may be made a lien by recording a certificate setting forth the amount of tax involved, penalties and interest, and the provisions of section 5475 are hereby made applicable.

(f) In any case of recordation of a certificate for the amount of the civil penalty under subsection (d), or for the amount of tax, penalties and interest assessed or added under subsection (e), a person shall be deemed to have an interest arising before the recordation of the certificate only if and to the extent that he acquired his interest in good faith and for a valuable consideration without notice of a violation of the requirements of subsection (d) having occurred."

SECTION 4. This Act, upon its approval, shall take effect as follows:

(a) All returns and claims for exemption under section 5149, filed during the year 1955 or before, shall be and become null and void on December 31, 1955.

(b) Sections 1 and 2 of this Act shall take effect as of January 1, 1956. Section 5149.01 as enacted by section 3 of this Act, shall apply to returns and claims for exemption filed in the calendar year 1956 and thereafter.

(Approved May 5, 1955.) S.B. 224, Act 64.

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## ACT 65

An Act Relating to Government Physicians and their Substitutes.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of health is hereby directed to enforce the following conditions when a substitute is designated by and for a government physician appointed by the board:

- (1) That the substitute be a physician licensed to practice under the laws of the Territory; and
- (2) That the substitute receive the full compensation that is due the government physician during the period of substitute duty.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) H.B. 638, Act 65.

### ACT 66

An Act Relating to the Transfer of Certain Personnel from the Waimea Hospital to the Kauai Veterans' Memorial Hospital at Waimea, Kauai, and the Placement of such Personnel under Civil Service.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any employee of the Waimea Hospital at Waimea, Kauai, with more than six months of service with the Waimea Hospital at the time of the official opening of the Kauai Veterans' Memorial Hospital at Waimea, Kauai, may be transferred to a comparable position on the staff of the Kauai Veterans' Memorial Hospital at Waimea, Kauai, and upon such transfer, shall become a regular member of the civil service system of the county of Kauai without the necessity of qualifying by examination. Such employee shall not suffer any loss of his vacation allowance, service credit, and other rights and privileges, and shall, after the transfer, be subject to the provisions of chapters 2 and 3 of the Revised Laws of Hawaii 1945, as amended.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) H.B. 759, Act 66.

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### ACT 67

An Act Providing for the Issuance of Special License Plates for Owners of Passenger Motor Vehicles with Amateur Radio Station Licenses.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any owner of a passenger motor vehicle, who is a resident of the Territory, and who holds an unrevoked and unexpired conditional or higher class amateur radio station license issued by the Federal Communication Commission, upon application, accompanied by proof of ownership of such amateur radio station license, may be issued a special license plate for his passenger motor vehicle as hereinafter provided.

SECTION 2. Such special license plate shall be similar in size and form to the regulation automobile number plate prescribed by law, and shall bear the official amateur radio call letters of the applicant, as assigned by the Federal Communications Commission. Such special license plate shall be attached to the vehicle in lieu of the regulation number plate; provided, however, that the regulation tag or emblem, issued each year, shall be affixed to the special license plate in the manner provided for in section 5708.

SECTION 3. Upon the issuance of such special license plates, the regulation number plates originally issued in the registration of the vehicle shall be surrendered to the director of the civil defense agency who shall retain such plates so long as the special license plates are attached to the vehicle.

SECTION 4. Upon the transfer of ownership of the vehicle, or upon the expiration or revocation of the amateur radio station license, the holder

of such special license plates shall surrender them to the director of the civil defense agency and the regulation number plates shall be placed on the vehicle in the proper place.

**SECTION 5.** The director of the civil defense agency shall be responsible for processing all applications for such special license plates; shall determine the color thereof; shall make all necessary arrangements for the purchase and issuance thereof; and shall make such reasonable rules and regulations for the control and issuance of such special license plates.

The director shall, on or before the fifth day of each month, send to the respective chiefs of police of the various counties, a list of the special license plates issued by him, together with a general description of the vehicles and the names and addresses of the owners to whom issued. Each chief of police shall retain such list as a permanent record of his office.

**SECTION 6.** Any applicant applying for the special license plates shall pay an amount equal to the cost of such plates to the civil defense agency.

**SECTION 7.** This Act is supplementary to the provisions of any statute of the Territory of Hawaii regarding automobile number or license plates and nothing herein shall be construed as abridging or amending such laws except as herein provided for the use of such special license plates in lieu of the regulation number plates prescribed by law.

**SECTION 8.** Any person violating any provision of this Act shall be guilty of a misdemeanor, punishable by a fine of not more than fifty dollars.

**SECTION 9.** This Act shall take effect upon its approval.

(Approved May 5, 1955.) **H.B. 793, Act 67.**

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## ACT 68

An Act to Amend Section 7183.01 of the Revised Laws of Hawaii 1945, as Added by Act 304 (Series C-168) of the Session Laws of Hawaii 1951, Relating to Firearms and the Possession, Transfer and Registration thereof, and Providing Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 7183.01 of the Revised Laws of Hawaii 1945, as added by Act 304 (Series C-168) of the Session Laws of 1951, is hereby amended to read as follows:

**"Sec. 7183. Transfer of rifles and shotguns.** No transfer of any rifle or shotgun having a barrel length of eighteen inches or over, whether usable or unusable, serviceable or unserviceable, modern or antique, registered under prior law or by a prior owner or unregistered, shall be made in any event to any person under the age of twenty years, and no person under the age of twenty years shall possess any such rifle or shotgun, except as provided by section 7184.

It shall be unlawful for any person to own or possess such rifle, unless he is a citizen of the United States, anything hereinbefore in this section contained to the contrary notwithstanding.

Any person who violates any provision of this section shall be

punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or by both."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) H.B. 877, Act 68.

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### ACT 69

An Act to Amend Chapter 116 of the Revised Laws of Hawaii 1945, as Amended, Relating to Junior Police Officers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6014 of chapter 116 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 6014. Junior police; aid to for injuries, death. The board of supervisors of each county is hereby authorized to make adequate provision, either by procuring insurance therefor, or by ordinance assuming liability on the part of the county therefor, for children who may be injured and for the defrayment of funeral expenses of children dying from injuries received, while performing duty as junior police officer and in all other activities certified as proper junior police functions by the police departments of the several counties, so that the cost of medical care and hospitalization of any such child so injured will be met in a sum not to exceed \$10,000.00 and the funeral expenses of any such child dying from injuries received while performing such duty will be met in a sum not to exceed \$750.00. The right of any such child or of any other person lawfully claiming damages by reason of injuries to, or death of such child, shall in nowise be affected by the provision of this section."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) H.B. 954, Act 69.

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### ACT 70

An Act Amending Paragraph 14 of Section 6521 of the Revised Laws of Hawaii 1945 Relating to Passenger Vehicles in the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph 14 of section 6521 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"14. Passenger vehicles. Where not within the jurisdiction of the public utilities commission, to regulate the use of public passenger vehicles, to limit the number of public passenger vehicles when necessary in the interest of public safety, and to fix the rates to be charged



for the transportation of persons or personal baggage.”.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) **H.B. 45, Act 70.**

### ACT 71

An Act to Amend Section 553 of the Revised Laws of Hawaii 1945, as Amended, to Provide for Accrued and Unpaid Wages of Deceased Government Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 553 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the last sentence of the first paragraph thereof to read as follows:

“In the event that any employee shall have died with accumulated or current accrued vacation earned but not taken, an amount equal to the value of his pay over the period of such earned vacation, and any earned and unpaid wages, shall be paid to the person or persons as may have been designated by the employee during his lifetime as the beneficiary or beneficiaries, or, failing such designation, to his surviving widow, or, failing such surviving widow, to his estate.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) **H.B. 765, Act 71.**

### ACT 72

An Act Amending Act 78 of the Session Laws of Hawaii 1953, Relating to the Protection and Conservation of Wild Birds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Subsection (c) of Section 1159 of the Revised Laws of Hawaii 1945, as amended by Act 78 of the Session Laws of Hawaii 1953, is hereby further amended by adding after the comma following “agriculture” in the first sentence the words “or constitute a nuisance,” and by deleting the entire proviso clause of said first sentence.

SECTION 2. Section 1159 is further amended by adding a new subsection following subsection (c) as follows:

- (d) Where species of wild birds are generally destructive to crops or otherwise harmful to agriculture within a district, the board may authorize their destruction within that area without requiring permits or reports.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 5, 1955.) **H.B. 873, Act 72.**

## ACT 73

An Act Relating to the Registration of Livestock Brands; Amending Sections 1068, 1069, and 1070 of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 17 of the Revised Laws of Hawaii 1945, as amended, as hereby further amended as follows:

(a) By amending section 1068 thereof to read as follows:

**"Sec. 1068. Brands to be recorded, etc.** Every owner of livestock in the Territory shall have his brand or mark, in order to secure its validity and individuality, recorded in a separate book kept for that purpose by the board of commissioners of agriculture and forestry to be known as the 'Hawaii Brand Book'. No brand or mark shall be recorded which may be similar or approximate in design to any brand or mark which shall have been previously recorded. The fee for each application for registration shall be one dollar. The application may be made directly to the board, through its duly authorized agents, or through any duly authorized police officer. The chiefs of police of the respective counties are hereby directed to authorize police officers to receive applications for registration of brands under the provisions of this Act. All moneys so received shall be paid into the treasury of the Territory. A signed and dated receipt shall be issued for each paid application. All applications shall be promptly forwarded to the board of agriculture. If it is determined that the application seeks the registration of a brand which either has not already been recorded by another person or is not similar in design to any other previously recorded brand, and has not expired, then a certificate showing that such brand or mark has been duly recorded shall be issued forthwith to the applicant. No record shall be made of any ear mark, except only as supplemental identification of a brand. Numerals from 1 to 9 and 0, not used in combination or with symbols, as a brand, shall not be subject to pre-emptive use but shall be the common property of all persons."

(b) By amending section 1069 thereof to read as follows:

**"Sec. 1069. Expiration of registration, re-registration.** Each brand registered under section 1068 shall expire on December 31, 1960 and at each five year interval thereafter unless re-registered during the 120 days preceding date of expiration."

(c) By amending section 1070 thereof to read as follows:

**"Sec. 1070. Right to a brand to be determined by the board of commissioners of agriculture and forestry.** The board of commissioners of agriculture and forestry shall determine conflicting claims by the applicants for a brand of similar or approximate design and in so doing shall be guided by the length of time each has used the brand, record of original registration, the number of animals then branded by each, and the priority of applications."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955). H.B. 1034, Act 73.

### ACT 74

An Act to Amend Section 1223 of the Revised Laws of Hawaii 1945, as Amended, Relating to Sizes of Fish Nets and Traps.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1223 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read:

**"Sec. 1223. Nets and traps, minimum sizes.** It shall be unlawful for any person to use fish nets or traps of any type with a stretched mesh of less than two inches, or to use any trap which is not portable or which is more than ten feet in length or six feet in height or width; **provided,** that (a) persons engaged in sport fishing may use throw nets with a stretched mesh of not less than one and one-half inches, (b) pond owners or operators who hold a license issued under section 1236 may use nets of smaller mesh to take young mullet or pua for stocking their fish ponds, (c) commercial fishermen who hold a permit issued under section 1237 may use nets of smaller mesh to take nehu and iao for bait, and (d) all persons may use nets of smaller mesh to take shrimp or opae or opelu; and **provided,** further, that in the taking of akule a net with mesh of not less than one and one-half inches may be used."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 5, 1955.) **H.B. 1138, Act 74.**

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### ACT 75

An Act to Amend Act 280, Session Laws of Hawaii 1953, by Authorizing the Acquisition of Land for Makawao Park.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 280, Session Laws of Hawaii 1953 is hereby amended by deleting "Makawao Park.....\$25,000.00" in subsection 3 (h) of Section 1 of said Act and inserting in lieu thereof "Makawao Park (including land).....\$25,000.00".

SECTION 2. This Act shall take effect on its approval.

(Approved May 5, 1955.) **H.B. 1368, Act 75.**

## ACT 76

An Act to Amend Chapter 1 of the Revised Laws of Hawaii 1945 by Amending Section 2 thereof Relating to the Publication of Laws and by Adding Three new Sections thereto Relating to Cumulative Supplements.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 1 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending section 2 thereof to read as follows:

“Sec. 2. **Publishing of session laws.** As soon as possible after the close of each session of the legislature, the secretary of the Territory or any other officer or employee of the Territory designated by the governor shall cause all laws duly enacted at such session to be printed, indexed and bound in book form, first the bills and then joint resolutions, in the order of their becoming law.”

SECTION 2. Chapter 1 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto three new sections reading as follows:

“Sec. 3.01. **Publishing of cumulative supplement.** As soon as possible after the close of the 1957 regular session and after the close of each regular session thereafter, the secretary of the Territory or any other officer or employee of the Territory designated by the governor shall cause to be prepared and published a cumulative supplement to the last revision of the laws of the Territory. Such cumulative supplement shall be completely indexed and contain all laws of a general and permanent nature enacted at any regular or special session of the legislature subsequent to the last revision of the laws and not included therein. The material in such supplement shall be arranged in the same order as like material is arranged in the last revision and shall show all sections repealed or amended.

**Sec. 3.02. Style of supplement; corrections.** Before publishing any act in such supplementary volume, the secretary of the Territory or other officer or employee of the Territory designated by the governor shall conform the style thereof as near as may be with that of the last revision of the laws of the Territory. He shall insert appropriate supplementary chapter and section numbers and headnotes together with section histories, wherever necessary to aid in placing amendments or new sections or chapters in an appropriate supplementary sequence with the latest revision of the laws. He may change or correct any chapter or section numbers contained as a part of or referred to in any such act, whenever necessary to carry out the intent of this section.

**Sec. 3.03. Citations of laws included in supplements.** Any act of the legislature may be cited in any subsequent legislative act or in any other proceeding by reference to the chapter or section numbers as set forth in the cumulative supplement published pursuant to sections 3.01 and 3.02.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 6, 1955.) **H.B. 173, Act 76.**

## ACT 77

An Act to Amend Section 12226 of the Revised Laws of Hawaii 1945, Providing for Division of Property of Parties to a Divorce Action.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first paragraph of section 12226 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 12226. Permanent alimony; maintenance of children; division of property.** Upon granting a divorce the judge may make such further decree or order against the defendant, compelling him to provide for the maintenance of the children of the marriage, to provide such suitable allowance for the wife, for her support, and to finally divide and distribute the estate, real, personal, or mixed, whether community, joint, or separate, in such proportion as shall appear just and equitable, having regard to the respective merits of the parties, to the ability of the husband, to the condition in which they will be left by such divorce, to the burdens imposed upon it for the benefit of the children of such marriage, and all other circumstances of the case; but no such final division shall impair the power of the court in respect to revision of allowances for minor children. Such decree, as to the custody, management and division of property shall be final and conclusive upon both parties subject only to the right to appeal as in civil cases, and **provided** that the court shall at all times including the pendency of any appeal, have the power to grant any and all restraining orders that may be necessary to protect the parties and secure justice."

SECTION 2. This Act shall take effect upon its approval but shall not be applicable to divorce proceedings pending on or before such effective date.

(Approved May 6, 1955.) H.B. 499, Act 77.

## ACT 78

An Act to Amend Chapter 316A of the Revised Laws of Hawaii 1945, as Enacted by Act 36 of the Session Laws of Hawaii 1951, Relating to the Creation of a Commission on Historical Sites and Defining its Powers and Duties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 316A of the Revised Laws of Hawaii 1945, as enacted by Act 36 (Series E-248) of the Session Laws of 1951, is hereby amended by adding thereto three new sections to be appropriately numbered to read as follows:

**"Sec. [12946.] Territorial monuments; reservation of land; relinquishment of private claims.** Upon the recommendation of the commission, the governor is authorized to declare by public proclamation historic land marks, historic and prehistoric structures, and

other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Territory of Hawaii to be territorial monuments and may reserve as a part thereof parcels of land the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. When such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Territory, and the governor is hereby authorized to accept the relinquishment of such tracts in behalf of the Territory.

**Sec. [12947.] Permits to examine ruins, excavations and gathering of objects.** Upon the recommendation of the commission, permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdiction may be granted by the land commissioner, president of the board of agriculture and forestry and other department heads to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may prescribe: **Provided**, that the examination, excavation, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums.

**Sec. [12948.] Hawaiian antiquity.** Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Territory of Hawaii, without the permission of the territorial department head or heads having the jurisdiction over the lands on which said antiquities are situated as provided for in the foregoing section, shall, upon conviction, be fined in the sum of not more than five hundred dollars or imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 6, 1955.) **H.B. 937, Act 78.**

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## ACT 79

An Act to Amend Section 12224 of the Revised Laws of Hawaii 1945 Relating to Maintenance and Attorney's Fees in Divorce Actions Pendente Lite.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 12224 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 12224. Temporary support, etc.** After the filing of a libel for divorce or separation the judge may make such orders relative

to the personal liberty and support of the wife pending the libel as he may deem fair and reasonable and may enforce such orders by summary process. The judge may also compel the husband to advance reasonable amounts for the compensation of witnesses and other expenses of the trial, including attorney's fees, to be incurred by the wife and may from time to time amend and revise such orders."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1955.) H.B. 1003, Act 79.

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## ACT 80

An Act to Amend Chapter 74 of the Revised Laws of Hawaii 1945, as Amended, Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 74 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By deleting from subsection (a) of section 4231 the words "attributable to his employing unit".

(b) By amending the last sentence in paragraph (1) of subsection (c) of section 4231 to read:

"The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under subsection (a) of this section."

(c) By amending the first sentence in section 4250, as amended, to read:

"Benefits paid to an individual during the year 1939 and thereafter shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by such employer bear to the total amount of base period wages paid to the individual by all of his base period employers, except that no such benefits shall be charged against the account of any base period employer from whose employment he became separated under one of the following circumstances: (1) left his work voluntarily without good cause, or (2) was discharged for misconduct connected with his work, or (3) left his work voluntarily for good cause not attributable to the employer."

SECTION 2. This Act shall take effect July 3, 1955.

(Approved May 6, 1955.) H.B. 1295, Act 80.

ACT 81

An Act to Amend Section 4268 of the Revised Laws of Hawaii 1945, Relating to Priorities for Unemployment Compensation Contributions under Legal Dissolutions or Distributions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4268 of the Revised Laws of Hawaii 1945 is hereby amended by substituting for the amount "two hundred and fifty dollars" therein the amount "\$300".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1955.) H.B. 1299, Act 81.

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ACT 82

An Act Relating to the Organization of Hospitals in the County of Maui Including Provision for the Appointment, Tenure, Powers, Duties and Functions of the Board of Trustees and the Hospital Administrator, and for the Financing of the Hospitals, and Repealing Sections 6459 to 6463 of Chapter 126 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Organization of hospitals.** Those institutions known as the Hana Hospital and the Central Maui Memorial Hospital are hereby declared to constitute the Maui Community Hospitals, and all powers, control and jurisdiction over such hospitals heretofore vested in the Maui Hospital Managing Committee are hereby transferred to a board of trustees established and created by this Act.

SECTION 2. **Board of Trustees.**

(1) Appointment; tenure. There is hereby created a board of trustees of nine members, who, except as herein otherwise provided, shall be appointed by the chairman and executive officer with the approval of the board of supervisors in the following manner:

a. One member to be appointed from among a list of not less than 3 to be submitted by the Maui County Medical Society (initial appointment to be for 5 years);

b. One member to be appointed from among a list of not less than 3 to be submitted by the Maui Planters' Association (initial appointment to be for 4 years);

c. One member to be appointed from among a list of not less than 3 to be submitted by the board of directors of the Maui Labor Council (initial appointment to be for 4 years);

d. One member to be appointed from among a list of not less than 3 to be submitted by the board of directors of the Maui Council of Churches (initial appointment to be for 5 years);

e. One member to be appointed from among a list of not less than 3 to be submitted by the board of directors of the West Maui Community Association (initial appointment to be for 3 years);



f. One member to be appointed from among a list of not less than 3 to be submitted by the Maui Veterans Council (initial appointment to be for 5 years);

g. One member to be appointed by the Maui board of supervisors from its own membership whose term shall expire upon termination of the period of his elective office;

h. One member, a resident of Maui county, to be appointed by the president of the board of health of the Territory of Hawaii (initial appointment to be for 3 years); and

i. One member to be appointed by the board of trustees, who shall be a resident of the district served by the Hana Hospital (initial appointment, however, to be made by the Maui board of supervisors for a period of 4 years).

Each member of the board of trustees, except the member appointed from the membership of the board of supervisors, shall serve for a term of five years; **provided**, however, that the members first appointed under this Act shall serve for the terms hereinabove set forth. Any vacancy which shall occur shall be filled by the appropriate appointing authority for the unexpired portion thereof only. Each trustee shall serve until his successor is duly appointed and qualified, and each trustee shall serve as such without compensation, but he shall be entitled to receive his actual traveling and other reasonable expenses incurred in the performance of his duties.

(2) Organization and meetings. The board shall elect a chairman from its membership and may designate any other trustee as acting chairman in the absence or disability of the chairman. The election of the chairman shall be held at the first meeting in July of each year. The board of trustees shall meet at least once each month.

(3) Powers and duties. The board of trustees shall have the full charge and control and the management of the property and business of the Maui Community Hospitals. The board of trustees shall have the authority to adopt such rules and regulations consistent with law as it may consider necessary for the proper and efficient conduct of its business and for the management of the Maui Community Hospitals. The board of trustees shall appoint in the manner provided in this Act a hospital administrator, who shall not be subject to the civil service and the classification laws. It shall also have the authority to appoint and remove, in accordance with the civil service and classification laws, such doctors, nurses, agents and employees necessary for the operation of the Maui Community Hospitals. In addition to the foregoing powers, the board of trustees shall have, and may exercise such additional powers in order to carry out the provisions of this Act.

(4) Rules and regulations. The board of trustees shall have the power to make and enforce such rules, regulations and by-laws as may be necessary for the administration, protection and maintenance of hospitals under its management, and all property belonging thereto. Such rules and regulations may include:

a. A provision for the organization of physicians and surgeons who are permitted to practice in the hospital into a formal medical staff with appropriate officers and by-laws and with staff appointments on an annual basis;

b. A provision that membership on the medical staff shall be restricted to licensed physicians and surgeons, worthy in character and in professional ethics;

c. A provision that the medical staff shall be self-governing with respect to the professional work performed in the hospital and that the medical staff shall meet once in each month and review and analyze at regular intervals their clinical experience;

d. A provision that accurate and complete medical records shall be prepared and kept for all patients. Such records shall contain identification data, personal and family history, history of present illness, physical examination, special examinations, professional or working diagnosis, treatment, gross and microscopic pathological findings, progressive notes, final diagnosis, condition on discharge, and such other similar information as may be required by the medical staff; and

e. Such provisions regulating the practice of medicine and surgery in the hospitals as the board of trustees may deem necessary for the protection of patients and the public health and welfare, and providing that the minimum standards of operation to be established and maintained shall, insofar as is consistent with this Act, be in accordance with and contain minimum standards of operation no lower than the rules and standards of other hospitals operating within the Territory of Hawaii.

(5) Power to incur indebtedness. The trustees may borrow money and may incur indebtedness in anticipation of the gross income to be derived from services to be rendered to patients for the current year in which the indebtedness is incurred or during the ensuing year; provided, however, that such indebtedness shall not exceed fifty percent of the total amount of the gross income for the preceding fiscal year.

### SECTION 3. Hospital Administrator.

(1) Appointment. The hospital administrator shall be appointed solely on the basis of his proven executive and administrative qualifications; provided, however, the present administrator shall be appointed and remain as hospital administrator, but he may be dismissed for cause as hereinafter provided. No member of the board of trustees shall, during his term, nor for one year thereafter, be eligible to be appointed as administrator.

(2) Tenure and removal. The administrator so appointed by the board of trustees may be removed for cause; provided, however, such removal shall require the majority vote of the board of trustees. The administrator shall be given written notice of his removal not less than fifteen days prior to the termination of his service, and he shall, upon demand, be furnished by the board of trustees with a statement of reasons for the removal in writing. The administrator shall also have the right to be heard publicly before the board of trustees prior to the date when his removal shall become effective. Upon the service of the notice of removal on the administrator, he may also be suspended from his position by the board of trustees. The action of the board of trustees in suspending or removing the administrator shall be final and conclusive.

(3) Salary. The administrator shall receive a salary fixed by the board of trustees.

(4) Acting administrator. The board of trustees may designate a subordinate to serve as acting administrator in the absence or disability of the administrator.

(5) Duties of the administrator. It shall be the duty of the administrator to manage and operate the Maui Community Hospitals, and to supervise the personnel thereof, subject to the direction of the board of trustees; to make such recommendations to the board of trustees concerning the operation and administration of the hospitals as he may deem advisable; to inform and advise the board of trustees as to the financial condition and future needs of the hospitals; to prepare and submit to the board of trustees the annual budget estimate and such reports as may be required; and to perform such other duties as may be prescribed by law or the rules and regulations of the board of trustees, or as may be imposed upon him by the board of trustees. Except as otherwise provided, all executive and administrative powers are conferred on the administrator. The administrator, with the approval of the board of trustees, may prescribe such procedures as he may deem necessary for the general administration of the hospitals.

**SECTION 4. Disposition of present employees.** All employees who shall be in the service of the Hana Hospital and the Central Maui Memorial Hospital on June 30, 1955, shall be continued in their existing civil service positions. If other hospitals within the jurisdictional area of the Maui Community Hospitals shall, in the future, consolidate their activities with the community hospitals, the board of trustees shall make every effort to integrate existing personnel of those hospitals into the Maui Community Hospitals organization.

**SECTION 5. Appropriations.**

(1) How spent. All monies appropriated or otherwise received by the Maui Community Hospitals shall be expended under the supervision and authority and by the order of the board of trustees, upon vouchers signed by the hospital administrator or a person designated by the administrator for this purpose.

(2) Budget. The board of trustees shall in the month of December of each year submit a detailed budget of the requirement for the various Maui Community Hospitals for the ensuing annual period to the Maui county board of supervisors. The budget shall specify generally the purpose for which the monies therein included are required and the estimated amount required for each purpose. There shall also be submitted an estimate of income and revenues on account of the operation of such hospitals. The board of supervisors may appropriate from any available funds of the county such additional amount as may be necessary for the operation of the hospitals, or any portion thereof.

(3) Funds. Any unexpended balance of any appropriation for all or any of the Maui Community Hospitals is hereby made subject to the jurisdiction and control of the board of trustees.

**SECTION 6. Consolidation of hospital services; increase in board membership; transfer of hospitals to board of supervisors, when.**

(1) The board of trustees shall have, subject to such terms and conditions as may be imposed by the board of supervisors, the power to negotiate with any owner or operator of any private hospital on the island of

Maui, for the consolidation of hospital services. Upon the satisfactory consolidation of hospital services and the abandonment of the maintenance and operation and the closing of any private hospital in the district of Wailuku, on the island of Maui, which existed on January 1, 1955, the membership of the board of trustees shall be increased by two members, allocated on the following basis:

a. One member to be appointed by the management of the Hawaiian Commercial & Sugar Company for a period of 5 years; and

b. One member to be appointed by the board of directors of the Maui division of the I. L. W. U. for a period of 5 years.

(2) If no private hospital maintained and operated in the said district of Wailuku, which existed on January 1, 1955, shall be closed within one year from effective date of this Act, then, at any time thereafter, the board of supervisors of the county of Maui shall be authorized and empowered to assume the control, operation and management of the hospitals constituting the Maui Community Hospitals by the adoption on one reading of a resolution for that purpose, and thereupon such hospitals shall cease to constitute the Maui Community Hospitals, the board of trustees shall be abolished, and all duties, powers, responsibilities and obligations relating thereto conferred by this Act upon the board of trustees and the hospital administrator shall be vested in the board of supervisors of the county of Maui; **provided**, however, if any time before the adoption of the said resolution any private hospital previously referred to in this paragraph shall be closed as provided herein, then the authority and power granted to the board of supervisors to assume the control, operation and management of the hospitals shall be withdrawn and the board of supervisors shall not have the power to adopt the resolution.

SECTION 7. Sections 6459 to 6463 inclusive, of Chapter 126, Revised Laws of Hawaii 1945, as amended, are hereby repealed.

SECTION 8. This Act shall take effect on July 1, 1955.

(Approved May 9, 1955.) H.B. 351, Act 82.

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## ACT 83

An Act Providing Holiday Pay for per diem Employees of the Territory and its Political Subdivisions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Whenever a holiday occurs between the days of Monday and Friday, inclusive, per diem employees of the Territory or any of its political subdivisions who are working throughout that week shall receive holiday pay equal to that which they would have received had that holiday been a regular working day.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1955.) H.B. 228, Act 83

ACT 84

An Act to Amend Chapter 52, Revised Laws of Hawaii 1945, as Amended, Relating to Nurses.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2770 of Chapter 52, Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By amending the definition of "registered nurse" to read as follows:

"'Registered nurse' means one who meets the qualifications for licensure as a registered nurse as set forth in section 2773 of this chapter, as amended, and has been licensed by the board to engage in the practice of nursing as set forth under (a) of this section in the definition of 'practice of nursing'."

(2) By amending the definition of "practical nurse" to read as follows:

"'Practical nurse' means one who meets the qualifications for licensure as a practical nurse as set forth in section 2773 of this chapter, as amended, and has been licensed by the board to engage in the practice of nursing as set forth under (b) of this section in the definition of 'practice of nursing'."

SECTION 2. Section 2771 of Chapter 52, Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the fourth paragraph by changing the last word "Oahu" to read "the island of their residence".

SECTION 3. Section 2772 of Chapter 52, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"**Sec. 2772. Meetings, organization.** The board shall hold regular bi-monthly meetings, and it may hold such additional meetings at such times as it may determine. The July meeting shall be the annual meeting at which the board shall elect from among its members a chairman, a secretary, and a treasurer who shall hold their respective offices for a term of one year."

SECTION 4. Section 2773 of Chapter 52, Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By amending the first sentence of the first paragraph by changing the figures "\$15.00" to read "\$20.00".

(2) By amending that paragraph referred to as the second paragraph in Act 240 (Series A-57), Session Laws of Hawaii 1947, and as amended by said act, by deleting therefrom the words "and has been graduated from a training school for nurses accredited by the League of Nursing Education", and by inserting a "period" after the word "board" which appears immediately before the words deleted herein.

(3) By amending the paragraph following the immediately foregoing paragraph to read as follows:

"The board shall have power, in cases of emergency affecting the health and safety of the community (the existence of which such board may, in its discretion, determine and which determination shall be final), to waive in writing the requirements of qualifications and examinations established by this chapter, either as to individuals or generally for a specific time or period not exceeding one year, fixed in such waiver, and to issue special temporary licenses or per-

mits for such purpose; **provided**, that such waiver may be extended and such special temporary license or permit reissued by the board. The absence or shortage of qualified licensed nurses shall be construed to fall within the meaning of the word 'emergency'."

(4) By amending the words "one dollar", with respect to renewal fee, appearing in the first sentence of the second to the last paragraph to read "two dollars".

**SECTION 5.** Section 2779 of Chapter 52, Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By deleting the words "as prohibiting gratuitous nursing by friends or members of the family, or" appearing in the first clause thereof.

(2) By deleting the words "or accredited courses for the training of attendants in the course and scope of their duties" appearing in the second clause thereof.

**SECTION 6.** Section 2780 of Chapter 52, Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the first sentence thereof to read as follows:

"It shall be unlawful for any person, except as authorized by law, to practice or offer to practice nursing for compensation in the Territory unless such person is licensed under this chapter."

**SECTION 7.** This Act shall take effect upon its approval.

(Approved May 10, 1955.) **H.B. 813, Act 84.**

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## ACT 85

An Act Amending Section 1166 of the Revised Laws of Hawaii 1945 Relating to Wild Deer.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 1166 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Wild deer. Close season, punishment. Except for the island of Molokai, the board of commissioners of agriculture and forestry may adopt rules and regulations to determine close and open seasons, bag limits, time and method of taking, hunting or killing of wild deer in the Territory. Anyone violating the provisions of such rules and regulations shall be punished by a fine of not more than fifty dollars for each offense."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 10, 1955) **H.B. 943, Act 85.**

### ACT 86

An Act Amending Section 6414.02 of the Revised Laws of Hawaii 1945, Relating to the Kauai Veterans Memorial Hospital, Including the Expansion of its Services.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6414.02 of the Revised Laws of Hawaii 1945 is hereby amended by the addition thereto of the following sentence:

"The hospital hereby established shall serve also as a health center for the county of Kauai and shall among its other functions conduct, insofar as its resources will permit, outpatient clinics for residents of Kauai in need of such service."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 10, 1955.) H.B. 1000, Act 86.

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### ACT 87

An Act to Create an Interstate Compact on Juveniles.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Execution of Compact.** The governor is hereby authorized and directed to execute a compact on behalf of the Territory of Hawaii with any other state or states legally joining therein in the form substantially as follows:

#### "INTERSTATE COMPACT ON JUVENILES

The contracting states solemnly agree:

##### ARTICLE I—Finding and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the non-criminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably

and liberally construed to accomplish the foregoing purposes.

#### ARTICLE II—Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

#### ARTICLE III—Definitions

That, for the purposes of this compact, 'delinquent juvenile' means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; 'probation or parole' means any kind of conditional release of juveniles authorized under the laws of the states party hereto; 'court' means any court having jurisdiction over delinquent, neglected or dependent children; 'state' means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and 'residence' or any variant thereof means a place at which a home or regular place of abode is maintained.

#### ARTICLE IV—Return of Runaways

(a) That the present, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency



entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact,

without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

(c) That 'juvenile' as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

#### ARTICLE V—Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped

from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

#### ARTICLE VI—Voluntary return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the

duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

**ARTICLE VII—Cooperative Supervision of Probationers and Parolees**

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called 'sending state') may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called 'receiving state') while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but, if at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state

until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

#### ARTICLE VIII—Responsibility for Costs

(a) That the provisions of Articles IV(b), V(b) and VII(d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV(b), V(b) or VII(d) of this compact.

#### ARTICLE IX—Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

#### ARTICLE X—Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to

protect the rights and equities of such delinquent juveniles and of the cooperating states.

#### ARTICLE XI—Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

#### ARTICLE XII—Compact Administrators

That the Secretary of Hawaii shall be the compact administrator and who, acting jointly with like officers of other states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

#### ARTICLE XIII—Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

#### ARTICLE XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

#### ARTICLE XV—Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters."

SECTION 2. Juvenile Compact Administrator. Pursuant to said compact, the secretary of Hawaii shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules

and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of the Territory and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by the Territory thereunder.

**SECTION 3. Supplementary agreements.** The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of the Territory or require or contemplate the provision of any service by the Territory, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

**SECTION 4. Financial arrangements.** The compact administrator, subject to the approval of the Territorial auditor, may make or arrange for any payments necessary to discharge any financial obligations imposed upon the Territory by the compact or by any supplementary agreement entered into thereunder.

**SECTION 5. Fees.** Any judge of the Territory who appoints counsel or guardian ad litem pursuant to the provisions of the compact may, in his discretion, fix a fee to be paid out of funds available for disposition by the court but no such fee shall exceed the sum of \$75.00.

**SECTION 6.** Any public funds expended for the return of a delinquent juvenile shall be deemed spent for the maintenance of said delinquent juvenile and the parents or legal guardian of said juvenile may be ordered to reimburse the proper governmental agencies pursuant to section 12329, Revised Laws of Hawaii 1945, as amended. The compact administrator shall determine the division of costs between departments in cases where public funds are to be expended.

**SECTION 7. Responsibilities of Territorial departments, agencies and officers.** The courts, departments, agencies and officers of the Territory and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

**SECTION 8.** The term "delinquent juvenile" as used in the Interstate Compact on juveniles shall include a delinquent child as defined in chapter 300, Revised Laws of Hawaii 1945, as amended.

**SECTION 9.** This Act shall be known and may be cited as the "Interstate Compact on Juveniles".

**SECTION 10.** This Act shall take effect upon its approval.

(Approved May 10, 1955.) H.B. 1018, Act 87.

**ACT 88**

An Act Amending Section 6772 of the Revised Laws of Hawaii 1945, as Amended Relating to Appropriations for the Board of Public Parks and Recreation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6772 of the Revised Laws of Hawaii 1945, as amended by Act 120, Session Laws of Hawaii 1947 is amended to read as follows:

“Sec. 6772. Appropriations. The board of supervisors shall appropriate for the use of the board of public parks and recreation from the general funds of the city and county of Honolulu a sum of not less than \$850,000.00 per annum, to be made available in equal monthly amounts for the maintenance and development of parks, playgrounds and other recreational facilities. The board of supervisors may, from time to time in its discretion, appropriate from the proper funds moneys to be used by the board of public parks and recreation in the furtherance of its plans for the development of parks, playgrounds, and other recreational facilities.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 10, 1955.) **H.B. 1317, Act 88.**

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**ACT 89**

An Act to Amend Section 12655, Revised Laws of Hawaii 1945, Relating to the Certification of Deeds and Other Instruments Involving Registered Land.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 12655, Revised Laws of Hawaii 1945, is hereby amended by adding to the third paragraph thereof the following sentence: “No more than two duplicates of such deeds and instruments shall be certified by the registrar without charge, and copies in excess thereof shall be certified upon the payment of 25 cents per page”.

SECTION 2. This Act shall take effect from and after July 1, 1955.

(Approved May 11, 1955.) **H.B. 815, Act 89.**



### ACT 90

An Act to Amend Section 1006 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Powers and Duties of the Board of Commissioners of Agriculture and Forestry.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The provision dealing with fish, game and shellfish of subsection 4 (entitled "rules and regulations") of section 1006 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"(d) the protection of introduced and transplanted fish, game and shellfish, or the conservation of the natural supply of fish in any area where, in the judgment of the board, such supply has been or may soon be seriously depleted; such rules and regulations may include the following: size limits, bag limits, open and closed seasons, specifications of fishing gear which may be used or possessed in the fishing areas and the conditions for entry into fishing areas; such rules and regulations shall not be inconsistent with any existing territorial law;".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1955.) H.B. 941, Act 90.

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### ACT 91

An Act to Repeal Section 4855 of the Revised Laws of Hawaii 1945, Relating to the Requirement of Report by the Department of Public Welfare to the Auditor of the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4855, Revised Laws of Hawaii 1945, is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1955.) S.B. 550, Act 91.

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### ACT 92

An Act to Amend Act 35 of the Session Laws of Hawaii 1947, Prohibiting the Use of Exposed White Canes Unless Wholly or Partially Blind and Requiring Precautions by Drivers Against Accidents or Injuries to Such Persons.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 35 of the Session Laws of Hawaii 1947, is hereby amended by amending section 2 thereof, being section 4880.02 of the Revised Laws of Hawaii 1945, to read as follows:

**"Sec. 4880.02. Section 2. Driver of vehicle, caution.** Any driver of a vehicle shall, on approaching a person who is wholly or partially blind and is carrying or using an exposed cane or walking stick which is painted white in color or painted white tipped with red, or a person who is wholly or partially blind and using a guide dog, take such reasonable precautions before proceeding as may be necessary to avoid an accident or injury to the person wholly or partially blind."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 11, 1955.) **S.B. 833, Act 92.**

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### ACT 93

An Act Exempting from Taxation All Property Actually and Solely to be Used in the Manufacture of Pulp and Paper from Bagasse Fibre and All Gross Proceeds of Sales of Pulp and Paper So Manufactured in the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** All property in the Territory, actually and solely to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper from bagasse fibre, shall be exempt from property taxes for a period of five (5) years from the 1st day of January of the year of commencement of construction of a plant or plants on such property for such purpose.

**SECTION 2.** The provisions of chapter 101 of the Revised Laws of Hawaii 1945, as amended, shall not apply to the gross proceeds of sales of pulp and paper from bagasse fibre manufactured in the Territory, and such gross proceeds of sale shall be exempt from the tax imposed by said chapter for the period of five (5) years from the date on which the manufacture of pulp and paper is first begun in any such plant or plants.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 11, 1955.) **S.B. 666, Act 93.**

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### ACT 94

An Act to Amend Sections 13001, 13003 and 13004, Revised Laws of Hawaii 1945, as Amended, Relating to the Hawaii National Guard.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 13001,** Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting the words "the army" in the first sentence thereof.

**SECTION 2.** **Section 13003,** Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting after the word and punctuation mark "regiment," in the first sentence thereof the word and punctuation mark "squadron,".

SECTION 3. Section 13004, Revised Laws of Hawaii 1945, is hereby amended in the following respects:

(a) By adding a comma after the word "regiment" in the first sentence thereof and inserting thereafter the word "squadron".

(b) By inserting after the word "army" in the last sentence thereof the words "or air force".

SECTION 4. This Act shall take effect upon its approval.

(Approved May 11, 1955.) **H.B. 906, Act 94.**

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## ACT 95

An Act to Add Section 8306.01 to the Revised Laws of Hawaii 1945 Relating to the Reservation of the Right to the Use of Corporate Names Within the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8306.01 is hereby added to the Revised Laws of Hawaii 1945 to read as follows:

**"Sec. 8306.01. Reservation of name.** The exclusive right to the use of a corporate name may be reserved by any person intending to organize a corporation under this chapter, by any domestic corporation intending to change its name, by any foreign corporation intending to do or carry on any business in the Territory or to take, hold, sell, demise or convey real estate or any other property therein, by any foreign corporation authorized to do or carry on any business in the Territory or to take, hold, sell, demise or convey real estate or any other property therein and intending to change its name, or by any person intending to organize a foreign corporation and intending to have such corporation authorized to do or carry on any business in the Territory or to take, hold, sell, demise or convey real estate or any other property therein. Reservation shall be made by filing with the treasurer an application in such form as the treasurer may prescribe to reserve a specified corporate name, and payment to the treasurer of a fee of \$1.00. If the treasurer finds that such name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period of thirty (30) days. The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the treasurer a notice of such transfer executed by the applicant for whom the name was reserved and specifying the name and address of the transferee."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 11, 1955.) **H.B. 1211, Act 95.**

## ACT 96

An Act Relating to Fishing, Amending Sections 1256, 1257, 1258, 1259, 1260, 1261 and Repealing Sections 1214.01, 1214.02, 1215, 1216, 1217, 1217.01, 1218, 1258.01, 1263.01 and 1263.02, Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Sections 1214.01, 1214.02, 1215, 1216, 1217, 1217.01, 1218, 1258.01, 1263.01 and 1263.02, Revised Laws of Hawaii 1945, as amended, are hereby repealed.

**SECTION 2.** Section 1256, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 1256. Definitions.** When used in this part:

'Commercial fishing' means the fishing for or taking of fish for profit or gain or as a means of livelihood, provided such fish are taken in the waters of the Territory or sold or offered for sale anywhere in the Territory.

'Commercial fisherman' means a person who has been issued a commercial fishing license as in this part provided.

'Division' means the division of fish and game of the board of agriculture and forestry.

'Fish' means any type or species of salt water fish, shellfish, crustaceans or other marine animals or products of any size."

**SECTION 3.** Section 1257, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 1257. Commercial fishing license.** It shall be unlawful for any person to engage in commercial fishing in the waters of the Territory to sell or offer for sale or to profit from any sale of fish anywhere in the Territory whether such fish are caught or taken in the waters of the Territory or outside the waters of the Territory, without first obtaining a commercial fishing license as provided in this section.

The director of the division or his duly appointed agent shall issue commercial fishing licenses upon payment of the prescribed fees and receipt of properly completed applications upon such forms as may be prescribed by the division. The applications for commercial fishing licenses shall require a statement of the following information: The applicant's name, address, age, place of birth, race, length of residence in the Territory, height, weight, color of hair and eyes, citizenship, and such other information as may be pertinent.

Every commercial fisherman shall also be issued a commercial fishing badge. No commercial fisherman shall permit any other person to carry, display or use his license or badge for any purpose. Every commercial fisherman shall display his badge in a prominent place upon his clothing while fishing and shall show his license upon demand of any officer authorized to enforce the fish and game laws of the Territory. Failure or refusal to so show such license shall be sufficient cause for the immediate cancellation of such license by the division.

All licenses issued under this section shall be in force from the

date of issuance to June 30 following the date of issuance. Duplicate licenses may be issued to any person upon affidavit that he has lost his license, and upon payment of a fee of fifty cents.

The fee for a commercial fishing license shall be:

(a) \$10.00 for any person who has resided in the Territory for one year or longer

(b) \$20.00 for all other persons."

SECTION 4. Section 1258, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 1258. Monthly catch report.** Every commercial fisherman who sells or offers to sell or profits from any sale of fish anywhere in the Territory shall furnish to the division or its duly authorized agent a report with respect to such catch and any live, fresh or frozen bait used for each month upon a form prescribed by the division, such form to be known as the 'monthly catch report'; **provided** however, that whenever the total monthly catch of fish in respect to any commercial fisherman is insufficient in the judgment of the division or its duly authorized agent to require the submission of a monthly catch report, a certificate of exemption may be issued, and thereafter such commercial fisherman to whom such certificate of exemption is issued shall not be required to submit monthly catch reports until the certificate is cancelled by the division or its duly authorized agent. Such certificates of exemption may be cancelled at any time. The monthly catch report shall be submitted to the board or its duly authorized agent not later than the 10th day of the month following the month in which the catch was made. Failure or refusal on the part of any commercial fisherman to submit a monthly catch report as prescribed in this section shall be sufficient cause for the immediate cancellation by the division of the commercial fishing license issued to him."

SECTION 5. Section 1259, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 1259. Penalties.** In addition to the revocation of commercial fishing licenses issued to them, all persons violating any of the provisions of sections 1257 and 1258 shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than \$25.00 and not more than \$200.00, or imprisonment for a term of not less than five nor more than 50 days, or to both fine and imprisonment; **provided**, that in the case of a corporation violating any of said provisions only the fine shall be imposed, but any officer of such corporation who wilfully procures or permits such violation of such provisions by the corporation shall be subject to fine and imprisonment or both, as in the case of an individual violating the same."

SECTION 6. Section 1260, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 1260. Aliens not admitted to United States.** It shall be unlawful for any person who has not been lawfully admitted to the United States to engage in commercial fishing in the waters of the Territory. The term 'United States' as used in this section, includes

the several states and the territories and possessions of the United States, and the term 'commercial fishing' has the meaning given in section 1256."

SECTION 7. Section 1261, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 1261. **Fish from waters not within territorial jurisdiction during closed seasons.** Any other provision of law to the contrary notwithstanding, wherever the possession or sale of fish, shellfish, crustaceans or other marine animals or products within the Territory is prohibited as for instance by a closed season, such prohibition shall not apply where such fish, shellfish, crustaceans or other marine animals or products have been taken from or caught outside of the waters of the Territory and such possession or sale has been licensed by the division under such rules and regulations as may be prescribed by the board of agriculture and forestry. The board of agriculture and forestry may make appropriate rules and regulations governing the issuance, suspension and revocation and all other terms of such licenses."

SECTION 8. This Act shall take effect upon its approval.

(Approved May 9, 1955.) **H.B. 942, Act 96.**

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## ACT 97

An Act to Authorize the Construction of a Storage Shed at Nawiliwili Harbor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of harbor commissioners is authorized to expend from its special fund a sum not to exceed \$200,000 for the construction of a storage warehouse on lands now under its control at Nawiliwili Harbor for the purpose of taking care of storage of outgoing island produce and the storage of incoming freight for consignees located on Kauai.

SECTION 2. No funds, except for engineering plans and estimates, shall be expended on the project herein authorized until a firm agreement for a period of not less than twenty (20) years is entered into by and between the board of harbor commissioners and the Kauai Consolidated Terminals, Ltd., or its successor, to pay an annual standby charge of 4% of the cost of the storage shed, and in addition, to pay the harbor board tariff storage rates when used for storage. The shed is to be under the control and direction of the board of harbor commissioners for the purpose stated under section 1 above.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 11, 1955.) **S.B. 774, Act 97.**

**ACT 98**

An Act Vesting the Control and Jurisdiction of the World War II Memorial to the Territory Department of Public Works.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The jurisdiction and control of the World War II Memorial, located in the front of the Territory Office Building in Honolulu, is hereby vested in the Territory Department of Public Works.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 12, 1955.) **H.B. 287, Act 98.**

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**ACT 99**

An Act Amending Section 1312.01 of the Revised Laws of Hawaii 1945, as Amended, Relating to Processors of Farm Produce.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1312.01 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by substituting a comma for the period appearing at the end of the definition "Processor" therein, and by adding immediately thereafter the words, "nor shall it include any person who processes any farm produce solely for sale directly to a consumer."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 12, 1955.) **S.B. 316, Act 99.**

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**ACT 100**

An Act to Amend Paragraph 3 of Section 9651 of the Revised Laws of Hawaii 1945 Relating to the Jurisdiction of Circuit Courts and Circuit Judges at Chambers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph 3 of section 9651 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"3. For the trial of causes of divorce, separations, and nullity of marriage, the jurisdiction of the circuit judge or judges shall be as prescribed in section 12211."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 12, 1955.) **S.B. 244, Act 100.**

## ACT 101

An Act Relating to the Employees' Retirement System of the Territory of Hawaii and Providing for Optional Membership Therein by the Judges of Certain Courts in the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Notwithstanding the provisions of section 4 of Act 261 of the Session Laws of Hawaii 1945, as amended by Act 72, Session Laws of Hawaii 1951, the payment of the sums authorized to be paid by Act 261 to any judges of the supreme court and the circuit courts of the Territory of Hawaii shall allow said judges at their option, at any time subsequent to May 22, 1945, to remain in, to be, or to become members of the employees' retirement system of the Territory of Hawaii, to be entitled to membership service credit under the provisions of section 704, Revised Laws of Hawaii 1945, and to purchase credit for former service with the government of the Territory or any county, including service prior to May 22, 1945.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 12, 1955.) S.B. 499, Act 101.

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## ACT 102

An Act to Amend Section 1911 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Library of Hawaii and the Trustees Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1911 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 1911. **Establishment; trustees.** There shall be a free circulating public library to be known as the Library of Hawaii which shall be governed by a board to be known as the trustees of the Library of Hawaii, the members of which shall be residents of the Territory and shall be appointed by the governor as provided in section 80 of the Organic Act. The board shall consist of seven members appointed as aforesaid; **provided** that for so long as the existing contract between the board and the Friends of the Library of Hawaii, originally known as the Honolulu Library and Reading Rooms Association, continues, or a new one between the parties is entered into and is in effect, whereby the Library of Hawaii continues to obtain the use of the books, property and income of the Friends of the Library of Hawaii, the Friends of the Library of Hawaii shall have the right to nominate three of the members who shall be appointed by the governor. The trustees shall be appointed for terms of six years, and until their successors are appointed; **provided** that for the first terms, two shall be appointed for two years, two for four



years and the remainder for six years, and any vacancy shall be filled for appointment for the unexpired term. They shall serve without pay. A majority of the board shall constitute a quorum for the transaction of business."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 12, 1955.) S.B. 755, Act 102.

### ACT 103

An Act Amending Sections 8222 and 8222.01 of the Revised Laws of Hawaii 1945, as Amended, Relating to Loan Ceilings and Package Mortgages for Savings and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8222 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by revising the first paragraph thereof as follows:

"Sec. 8222. Real estate loans, ordinary. Ordinary loans shall be made only on home property in the Territory, and shall be secured by mortgage on real estate and improvements of such home, which improvements may include household fixtures and appliances, such mortgage not to exceed 80 per centum of the unencumbered appraised value thereof."

SECTION 2. Section 8222 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting after the words, "It may provide for an assignment of rents, which assignment shall be valid.", contained in the third paragraph thereof, the following:

"It may also provide that household fixtures and appliances shall be a portion of the security for such loan. Said household appliances shall be deemed fixtures and a part of the real property or any interest in real property which are security for such loans, when they are so described in the loan or mortgage agreement."

SECTION 3. Section 8222.01 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by deleting from the second sentence the words "seventy-five" and inserting in place thereof the word "eighty".

SECTION 4. This Act shall take effect upon its approval.

(Approved May 12, 1955.) S.B. 285, Act 103.

### ACT 104

An Act to Amend Section 6001 and 7665 of the Revised Laws of Hawaii 1945, Relating to Official Bonds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6001 of the Revised Laws of Hawaii 1945 is amended to read:

**"Sec. 6001. Bonds of county officers; form.** Every bond required to be given by any officer, deputy, assistant, clerk or employee, in any department, bureau, office or service, of any county, shall be made payable to the county, and shall be in such form as the officer with whom the bond is required to be deposited prescribes; **provided,** that no such bond shall be deemed sufficient or be accepted unless the surety thereon is a corporation such as is mentioned in section 497."

**SECTION 2.** Section 7665 of the Revised Laws of Hawaii 1945 is amended by amending the last sentence thereof to read:

"The clerk of each circuit court shall keep a book to be called the 'bond record', in which he shall record such data in respect to each of such bonds deposited and filed in his office as the attorney general may direct."

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 12, 1955.) S.B. 763, Act 104.

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### ACT 105

An Act Authorizing Suit Against the Territory by William Myron Cash for Injuries Sustained in a Motor Vehicle Accident.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The circuit court of the first judicial circuit of the Territory of Hawaii shall, subject to review by the supreme court as provided by law, have jurisdiction to hear and determine the suit heretofore brought by William Myron Cash against the Territory of Hawaii, for damages resulting from personal injuries sustained in a motor vehicle accident occurring in January of 1953, involving a motor vehicle owned and operated by the Territory of Hawaii through its agents or employees.

**SECTION 2.** Any judgment in favor of the said William Myron Cash shall be paid solely out of the proceeds of any public liability insurance or indemnity policy or policies carried by the Territory of Hawaii.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 12, 1955.) S.B. 857, Act 105.

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### ACT 106

An Act to Amend Sections 8331 and 8345 of the Revised Laws of Hawaii 1945 Relating to Corporations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Paragraph (1) of section 8331 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"(1) Any corporation (other than banking, trust and insurance companies) upon complying with the applicable requirements of this section, may effect a reduction of its capital or capital stock, by re-

ducing the authorized capital stock of the corporation or by retiring any shares of stock of any class or classes, or by reducing the par value of the shares of stock of any class or classes, or upon the conversion of all of the shares of any class of convertible stock into shares of another class or by releasing or cancelling subscriptions to its stock of any class or classes; **provided**, however, that no such reduction of the capital or capital stock of any corporation shall be made in violation of the rights of the holders of stock of any class of the corporation as set forth in the charter or articles of association or in a resolution, a certified copy of which is filed in the office of the treasurer of the Territory, pursuant to the provisions of section 8321; and **provided** further that no such reduction of the capital or capital stock of any corporation shall be made by the release or cancellation of subscriptions to any class or classes of its stock unless the assets of the corporation remaining after such release or cancellation, shall equal in value the total par value of the remaining capital stock of the corporation and unless such assets shall then be equal in value to twice the amount of indebtedness of the corporation."

SECTION 2. Paragraph (2) of section 8331 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"(2) What vote necessary. Any such reduction of capital or capital stock shall require the affirmative vote of the holders of not less than three-fourths of all of the shares of stock of the corporation issued and outstanding or if two or more classes shall be issued and are outstanding, then of the holders of three-fourths of the shares of each class of stock outstanding and entitled to vote, which vote shall be given at any meeting duly called and held for the purpose; **provided**, however, that in case shares of any class of stock of a corporation are subject to redemption or are convertible into shares of any other class of stock of the corporation pursuant to provisions set forth in the charter or articles of association of the corporation or in a resolution, a certified copy of which is filed in the office of the treasurer of the Territory pursuant to section 9321, and if such provisions specify that all or any part of said shares of such class may be redeemed or converted pursuant to the determination other than by vote of stockholders as aforesaid, whether by the board of directors or by the vote of any different percentage of stockholders or of any class or classes thereof or as fixed in the charter or articles of association or in the resolution authorizing the issue of such stock, then any reduction of the capital or capital stock of the corporation by the redemption of all or any part or by the conversion of all of said shares of such class shall not require the vote of stockholders as aforesaid, but may be effected pursuant to determination made or fixed as specified in such provisions. Any reduction of the capital or capital stock of a corporation pursuant to this paragraph, shall be subject to the provisions of paragraph (7) of this section."

SECTION 3. Paragraph (3) of section 8331 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"(3) Certificate. A verified certificate shall be signed by the

president and secretary or other duly authorized officers of the corporation and shall be presented to the treasurer of the Territory setting forth therein facts showing that the required vote or other determination pursuant to the provisions of this section of the proposed reduction of capital or capital stock has been obtained or made, and certifying that no distribution of assets representing the surplus created by such reduction will be made at any time unless the remaining assets of the corporation shall then equal in value the total par value of the remaining capital stock of the corporation, and unless the remaining assets of the corporation shall then equal in value twice the amount of indebtedness of the corporation and, in the case of a reduction of capital or capital stock by release or cancellation of subscriptions to stock, certifying that the remaining assets of the corporation, upon such reduction, will equal in value the total par value of the remaining capital stock of the corporation and will then be equal in value to twice the amount of the indebtedness of the corporation."

SECTION 4. Paragraph (4) of section 8331 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"(4). Notice not required, when. In case any such reduction shall involve only a reduction in the authorized but unissued capital stock of the corporation, or the retirement of shares of stock of any class or classes acquired by the corporation in accordance with the provisions of law, or which have been surrendered pursuant to any right of conversion and in respect of which shares or securities of any other class or classes have been issued, and shall not involve the retirement or the reduction in par value of any shares which are issued and outstanding, then the treasurer of the territory shall enter the reduction of record in his office upon the filing of the verified certificate referred to in paragraph (3) of this section, and upon payment of the fee required by law."

SECTION 5. Paragraph (5) of section 8331 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"(5). Notice required, when; treasurer's power. In case any such reduction shall involve the retirement or the reduction in the par value of any shares which are issued and outstanding, or the release or cancellation of any stock subscription, then the treasurer, after the receipt of said verified certificate, shall publish a notice of the proposed reduction in a newspaper of general circulation published in the Territory at least once a week for four successive weeks (four insertions) the first publication to be not more than ten days after receipt of the certificate. Upon the expiration of thirty days after the first publication of the notice, if no protest or objections to the proposed reduction shall have been filed in the office of the treasurer by any person claiming to be a stockholder or creditor of the corporation, the treasurer shall enter the reduction of record upon the payment of the fee required by law. Otherwise, the treasurer shall proceed to consider any objections made, and if he shall thereupon be satisfied that the required vote or other determination has been obtained or made, he shall enter the reduction of record upon payment of the fee required by law."

SECTION 6. Section 8345 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 8345. **Of subscribers and stockholders; assessments; liability to corporation and creditors.** Every subscriber to shares whose subscription has not been released or cancelled pursuant to section 8331, and, except as otherwise in this section **provided**, every other person to whom shares were originally issued shall be liable to the corporation for the unpaid portion of the full consideration agreed to be paid for such shares, but in any event for not less than the unpaid portion of the amount of capital of the corporation attributable to such shares. Any transferee of shares who has acquired such shares in good faith without knowledge that they were not paid in full or to the extent stated in the certificate for such shares, shall not be liable for any amount beyond that shown by such certificate to be unpaid on the shares represented thereby; and any holder who derives his title through such a transferee and who is not himself a party to any fraud affecting the issuance of such shares shall have all the rights of his transferor.

Every transferee of partly paid shares who acquired them under a certificate showing the fact of part payment on such shares, and every transferee of such shares (other than a transferee who derives title from a holder in good faith without knowledge, and who is not a party to any fraud affecting the issuance of such shares) who acquired them with actual knowledge that the shares were not paid in full or to the extent stated in the certificate therefor shall be personally liable to the corporation for calls made or for instalments of the amount unpaid becoming due until he transfers them to one who becomes liable therefor. When a shareholder makes a transfer of shares in good faith which is duly registered on the corporate books to one who becomes liable therefor, he shall be thereby discharged from liability to the corporation for the portion of the subscription price or attributable capital which remains uncalled for at the time of registration, unless it is otherwise provided in the certificate or unless the shareholder shall have executed a subscription contract for the issuance of said shares. After a transfer has been registered there shall be no lien upon the shares for calls already made or instalments of the price due at the time of transfer and registration except as reserved in the certificate.

The liability under subscription contracts, written or oral, of shareholders imposed by this section shall be an asset of the corporation and may be enforced by any appropriate proceedings. No release or cancellation executed by the corporation of any such liability, excepting only releases or cancellations pursuant to section 8331, shall be effective in any action brought by or on behalf of any creditor to reach and apply any such liability. In the event the corporation shall purchase from any stockholder (other than bona fide officers or employees of the corporation who have purchased such shares from the corporation under agreements reserving to the corporation the option to repurchase or obligating it to repurchase such shares) shares of stock which have not been fully paid, the transferor of such partly paid shares shall, nevertheless, remain liable

to the corporation for the amount unpaid upon said stock in any action brought by or on behalf of any creditor to reach and apply the debt for the amount unpaid upon said stock at the time of repurchase.

No person holding shares in good faith as executor, administrator, guardian, trustee, receiver or any other representative or fiduciary capacity shall be personally liable as a shareholder by reason of so holding such shares, but the estate and funds in the hands of such fiduciary or representative shall be so liable to the extent hereinabove provided.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder, but the person pledging such shares shall be considered a holder thereof and shall be liable as a shareholder.

The dissolution of the corporation shall not affect the subscribers' or shareholders' liability and any subscriber or shareholder who shall make payment to the corporation or to any creditor of the corporation in discharge in whole or in part of any debt or liability of the corporation shall have full rights of subrogation to the end that the contribution of such subscriber or shareholder shall not exceed the proportionate contributions made by all other subscribers and stockholders for the discharge of the debts of the corporation."

SECTION 7. This Act shall take effect upon its approval.

(Approved May 12, 1955.) **H.B. 1120, Act 106.**

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### ACT 107

An Act Amending Section 8321 of the Revised Laws of Hawaii 1945 Relating to Corporations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8321 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 8321. Stock, classes. Any corporation incorporated under the laws of the Territory with power to issue stock may issue two or more classes of stock with such preferences, voting powers, restrictions and qualifications thereof as shall be fixed in the resolution authorizing the issue thereof, by the affirmative vote of the holders of three-fourths of all of its stock or, if two or more classes of stock have been issued, of the holders of three-fourths of each class of stock outstanding and entitled to vote. A certified copy of such resolution shall be filed in the office of the treasurer of the Territory. Any such corporation may provide, by its charter or articles of association or by the affirmative vote of the holders of three-fourths of all of its stock or, if two or more classes of stock have been issued, of three-fourths of each class of stock outstanding and entitled to vote, that any of its authorized shares, issued or unissued, with or without par value, shall be convertible at the option of the holders thereof into shares with or without par value of any other class or

classes or of any other series of the same class upon such terms and conditions and with such limitations as may be fixed in the charter or articles of association or in such resolution or, if the charter or articles of association or such resolution authorizes the board of directors to fix before issuance the terms and conditions with or without limitations on which any class of stock or any series of any class of stock which may be issued in series shall be so convertible, then upon such terms and conditions and with such limitations as may be fixed by the board of directors; **provided**, however, that no convertible shares so authorized shall be issued nor shall issued shares be changed into convertible shares nor shall the conversion privileges of issued convertible shares be changed unless, at the time of such issuance or such change in issued shares, the capital represented by the convertible shares plus the additional value, if any, which must be paid upon conversion, is at least equal to the consideration required by law for the shares to be issued pursuant to the conversion."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 12, 1955.) **H.B. 1212, Act 107.**

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### ACT 108

An Act for the Relief of Carl Dusenberry.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The commissioner of public lands is hereby authorized to waive the rents unpaid to the Territory of Hawaii by Carl Dusenberry for General Lease No. 3218, Waimea Valley, for the period from December 22, 1950, to December 21, 1953, because the usefulness of the land leased was destroyed by the 1949 flood.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) **S.B. 126, Act 108.**

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### ACT 109

An Act Relating to Tax Exemptions, Amending Acts 186 and 274, Session Laws of Hawaii 1953, and Enacting a new Provision as to Insurance Proceeds and Benefit Payments Received as a Result of the Volcanic Eruptions at Puna, Island of Hawaii, in 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Nothing in Act 186, Session Laws of Hawaii 1953, shall be construed as exempting from the tax imposed by chapter 102, Revised Laws of Hawaii 1945, any person (natural or artificial) who is a resident of the Territory, or who does business in the Territory more than six months in the calendar year or taxable year of such person, as the case may be.

SECTION 2. Act 274, Session Laws of Hawaii 1953, is hereby amended by deleting from section 1 the words and figures "chapters 101 and 102" and inserting in lieu thereof "chapter 101".

SECTION 3. Amounts of insurance proceeds received in compensation for damage or loss sustained, and amounts of sugar benefit payments made by the United States because of the normal yield not being realized, as a result of the volcanic eruptions at Puna, Island of Hawaii, in 1955, shall not be included in the measure of the tax imposed by chapter 101, Revised Laws of Hawaii 1945.

SECTION 4. This Act shall take effect upon its approval and sections 1 and 2 thereof shall apply to taxes due under chapter 102 on January 1, 1956, or for a taxable year commencing in 1955, and thereafter.

(Approved May 13, 1955.) S.B. 359, Act 109.

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### ACT 110

An Act to Amend Section 2513 of the Revised Laws of Hawaii 1945, Relating to Duty of Physician, Surgeon, Hospital, Clinic, etc., to Report Wounds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2513 of the Revised Laws of Hawaii 1945, is hereby amended by amending the heading and the first paragraph thereof to read as follows:

"Sec. 2513. Duty of physician, surgeon, hospital, clinic, etc., to report wounds. It shall be the duty of every physician and surgeon attending or treating a case of knife wound, bullet wound, gunshot wound, powder burn or any injury that would seriously maim, produce death, or has rendered the injured person unconscious, caused by the use of violence or sustained in a suspicious or unusual manner, or, whenever such case is treated in a hospital, clinic or other institution, for the manager, superintendent or person in charge thereof, to report such case to the chief of police of the county or city and county within which the person was attended or treated, giving the name of the injured person, a description of the nature, type and extent of the injury, together with other pertinent information which may be of use to the chief of police. As used herein, the term 'chief of police' shall mean the chief of police of each county and city and county and any of his authorized subordinates."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 714, Act 110.



### ACT 111

An Act Amending Section 2805 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Practice of Optometry and Examination therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2805 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting the word "sixty" as it appears in the third paragraph and inserting in lieu thereof the word "thirty".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 758, Act 111.

### ACT 112

An Act to Amend Section 7073 of the Revised Laws of Hawaii 1945, Relating to Licenses for the Preparation of Food Products.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7073 of the Revised Laws of Hawaii 1945 is amended by amending the last paragraph thereof to read:

"Nothing in this section and section 7074 shall be construed to include the manufacture and sale of poi or paiai or ulu, also known as breadfruit poi."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 765, Act 112.

### ACT 113

An Act to Amend Chapter 53-A of the Revised Laws of Hawaii 1945, as Amended, Relating to the Renewal Fee for Dispensing Opticians' Certificates.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2827 of chapter 53-A of the Revised Laws of Hawaii 1945, as enacted by Act 183 of the Session Laws of Hawaii 1949, is hereby amended to read as follows:

"Sec. 2827. Expiration and renewal. Certificates issued under this chapter, unless sooner suspended or revoked, shall expire on the 1st day of July of each year, but may be annually renewed by the certificate holders in good standing upon the payment of an annual renewal fee of \$10.00."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 843, Act 113.

**ACT 114**

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, as Amended, Relating to Real Property Tax Exemption.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5151, subsection (a), of the Revised Laws of Hawaii 1945, as amended, is hereby amended by adding thereto the following:

“69. The property belonging to Waipahu Community Church located off Farrington Highway, Waipahu, Oahu, so long as the same is used solely for religious purposes.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 939, Act 114.

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**ACT 115**

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, as Amended, Relating to Real Property Tax Exemption.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5151, subsection (a), of the Revised Laws of Hawaii 1945, as amended, is hereby amended by adding thereto the following:

“69. The property belonging to Keron Shu Todaiji Hawaii Betsuin, designated as 291 Jack Lane, Honolulu, Oahu, so long as the same is used solely for religious purposes.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 975, Act 115.

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**ACT 116**

An Act Relating to and Regulating the Sale of Prophylactics.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. As used in this Act, prophylactic means any device, appliance or medicinal agent used or to be used for the prevention of venereal disease.

SECTION 2. It shall be unlawful for any person to publicly vend prophylactics in mechanical coin-operated machines in the Territory of Hawaii.

SECTION 3. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined

not more than \$500 nor less than \$100, or imprisoned for not more than 100 nor less than 30 days, or both.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 529, Act 116.

### ACT 117

An Act to Amend Section 2017 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Regulation of Sanitarians.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2017 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting in section 2017 (1) after the words "tattoo artist" the word "sanitarians".

SECTION 2. All laws or parts of laws in conflict or inconsistent herewith are hereby repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 570, Act 117.

### ACT 118

An Act to Amend Section 1231 of the Revised Laws of Hawaii 1945, as Amended, Relating to Fishing in Certain Waters.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1231 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the first two paragraphs thereof to read as follows:

"Sec. 1231. Fishing in Waikiki and other waters; penalty. It shall be unlawful for any person to fish in the waters of the Waikiki reclamation canal, the drainage canal constructed in connection with the Kapiolani Boulevard or the Kapalama drainage canal on Oahu, or the Kapaa and Waikaea canals on Kauai, or Reeds bay, Radio bay, Wailoa river and Wailuku river on Hawaii, with any device whatsoever, except as hereinafter provided.

Any person may fish for or take any fish with one line, or one rod and line, provided the line shall not have more than two hooks and provided that such fishing is hereby authorized in the above named canals, bays and rivers, at any time; or may take crabs with not more than ten nets, provided the nets shall not exceed two feet in diameter; or may take shrimps for bait purposes only with a hand net, provided the net shall not exceed three feet in any dimension."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 542, Act 118.

**ACT 119**

An Act Amending Sections 1652 and 1653 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Maintenance of Inventory of Government Assets by County Officers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 1652 of the Revised Laws of Hawaii 1945, as amended by Act 151 of Session Laws of Hawaii 1945, is hereby further amended by deleting the words "full cash value" appearing in line twelve thereof and by substituting therefor, the words "original cost".

**SECTION 2.** Section 1653 of the Revised Laws of Hawaii 1945 as amended by Act 20 of Session Laws of Hawaii 1951, is hereby further amended by deleting the words "full cash value" appearing in line thirteen thereof and by substituting therefor, the words "original cost".

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 13, 1955.) **H.B. 1240, Act 119.**

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**ACT 120**

An Act to Amend Section 4352 of the Revised Laws of Hawaii 1945, as Amended, Relating to Definitions in the Hawaii Wage and Hour Law.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 4352 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by renumbering subsection "(10)" to "(11)" and adding a new subsection numbered "(10)" after subsection (9) to read as follows:

"(10) by a nonprofit school during the time such individual is a student attending such school."

**SECTION 2.** This Act shall take effect on July 1, 1955.

(Approved May 13, 1955.) **S.B. 18, Act 120.**

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**ACT 121**

An Act to Repeal the Requirements of Section 7004 of the Revised Laws of Hawaii 1945, Respecting Certificates from the Bureau of Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 7004 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) By deleting from the second, third, fourth, fifth and sixth lines thereof the words and figures "unless the applicant for such license (if subject to the requirements of chapter 77) shall have filed with the treasurer,

officer or employee a certificate from the bureau of workmen's compensation, showing that the applicant has complied with the provisions of sections 4454 and 4455, and".

(b) By deleting from the sixth line thereof the word "also".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 381, Act 121.

## ACT 122

An Act to Amend Section 4019, Revised Laws of Hawaii 1945, as Amended, Relating to Conditionally Discharged Mentally Ill Patients of the Territorial Hospital.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The second paragraph of Section 4019, Revised Laws of Hawaii 1945, as amended by Act 222, Session Laws of Hawaii 1945, is hereby further amended by adding a new sentence at the end thereof to read as follows:

"Where, however, an impecunious, conditionally discharged mentally ill patient is returned to the territorial hospital for further care and treatment from counties other than the city and county of Honolulu, the expenses of conveying such patient, including all other necessary expenses incidental thereto, shall be borne by the department of institutions."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 565, Act 122.

## ACT 123

An Act to Authorize the Board of Supervisors of the City and County of Honolulu to Create Volunteer Fire Departments.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of the city and county of Honolulu shall have the power to create volunteer fire departments in the rural communities in the city and county of Honolulu, where no regular fire stations are in operation. Such volunteer fire departments shall consist of personnel on a voluntary noncompensatory basis; the board shall designate such chief engineer of any regular fire department to supervise the training of such volunteer fire departments.

The board of supervisors shall also have the power to provide the facilities and equipment that are necessary for the proper functioning of these volunteer fire departments.

SECTION 2. All members of any duly established volunteer fire department shall have all the rights and duties similar to those provided

under chapter 123 of the Revised Laws of Hawaii 1945. In case of injury or death arising out of the performance of duty within such volunteer organization, members of such duly established volunteer fire departments and their dependents shall be entitled to all of the benefits provided by law as set forth under section 13183 of Act 268 of the Session Laws of Hawaii 1951, (Civil Defense and Emergency Act) providing for the benefits under chapter 77 of the Revised Laws of Hawaii 1945 to volunteers under the said Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S.B. 802, Act 123.

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### ACT 124

An Act to Amend Section 476 of the Revised Laws of Hawaii 1945, Relating to Rules and Regulations Adopting or Prescribing Codes or Specifications.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 476 of the Revised Laws of Hawaii 1945 is hereby amended by inserting in the seventh line of said section, after the comma following the word "secretary", the following:

"in the case of the Territory, or with the clerk of the county, in the case of a county,".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) S. B. 753, Act 124.

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### ACT 125

An Act to Reimburse James M. Tanaka and Thomas T. Tanaka for the Value of Improvements Constructed on Public Land, from the Proceeds of the Sale of such Land and Improvements.

WHEREAS, the Territory of Hawaii acquired Parcel 57-A, area 1.455 acres, together with other parcels of land, situated at Keauhou 1st, District of North Kona, County and Territory of Hawaii, by deed dated March 3, 1953 and recorded in the Bureau of Conveyances at Honolulu, T. H., in Liber 2672, pages 470-477; and

WHEREAS, James M. Tanaka and Thomas T. Tanaka, the owners of land adjacent to said Parcel 57-A, inadvertently and in good faith constructed a dwelling house on said Parcel 57-A; and

WHEREAS, the territorial highway engineer has declared that said Parcel 57-A is excess to the needs of the Territory of Hawaii for highway purposes and may be sold; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. When and if said Parcel 57-A, together with improvements thereon, is disposed of by public sale in accordance with the provi-

sions of section 73 of the Organic Act, the commissioner of Public Lands shall be and hereby is authorized and directed: (1) to reimburse James M. Tanaka and Thomas T. Tanaka the appraised value of the improvements, which value shall not exceed the cost thereof, constructed on said Parcel 57-A, from the proceeds of the sale of said parcel and improvements; or (2) in the event the said James M. Tanaka and Thomas T. Tanaka or either of them is the successful bidder for said property and improvements at such sale, then in such event they or he shall be credited with said sum towards payment for said property and improvements; **provided**, however, that the commissioner shall deduct from said sum to be paid or credited to said James M. Tanaka and Thomas T. Tanaka or either of them a reasonable ground rental, from the date of construction of said improvements to the date of sale.

SECTION 2. This Act shall take effect from and after the date of its approval.

(Approved May 13, 1955.) S.B. 772, Act 125.

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## ACT 126

An Act to Amend Section 2412 of the Revised Laws of Hawaii 1945, as Amended, Providing for the Transfer of Hansen's Disease Sufferers to and Their Residence in the Settlement at Molokai.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2412 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 2412. **Transfer to and from settlement.** Any Hansen's disease sufferer shall be transferred from any hospital, settlement or place for the care and treatment of persons affected with Hansen's disease to the settlement at Molokai at any time upon his written request. Any Hansen's disease sufferer whose custody it has been necessary to obtain by arrest or who is unwilling to receive such treatment or to submit to such rules and regulations as the board may approve or prescribe may be transferred to the settlement at Molokai at any time. A Hansen's disease sufferer who is transferred to the settlement at Molokai shall not be required to sign any statement agreeing to transfer out of the settlement, nor shall a Hansen's disease sufferer resident in the settlement be required to leave the settlement without his written consent."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 142, Act 126.

**ACT 127**

An Act Amending Section 8357 of the Revised Laws of Hawaii 1945 Relating to Corporations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8357 of the Revised Laws of Hawaii 1945 is hereby amended by substituting a comma for the period at the end thereof and adding thereto the following:

“provided further that if it shall appear that the aggregate of all of the taxes, imposts, license fees and assessments theretofore levied upon and due and payable by such corporation to the Territory or any of its municipal divisions exceeds the aggregate of all of the assets of such corporation, then a certificate showing the allowance of the dissolution of such corporation may be allowed or issued upon the presentation of a valid certificate showing that all of the assets of such corporation have been paid and applied against such taxes, imposts, license fees and assessments.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 1206, Act 127.

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**ACT 128**

An Act Amending Section 8356 of the Revised Laws of Hawaii 1945 Relating to Corporations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8356 of the Revised Laws of Hawaii 1945 is hereby amended by adding a new paragraph thereto to follow the fourth paragraph thereof and to read as follows:

“If, after the filing of an itemized account as herein provided, other or further assets of a dissolved corporation shall be discovered within the Territory, the treasurer shall appoint a trustee or trustees for the administration thereof in accordance with this section and any trustee or trustees so appointed shall, with respect to such assets, have all of the powers and duties herein provided for trustees for dissolved corporations.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) H.B. 1207, Act 128.



## ACT 129

An Act Amending Chapter 155 of the Revised Laws of Hawaii 1945, as Amended, Relating to Corporations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 155 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by inserting after section 8320 thereof a new section to read as follows:

**"Section 8320.03. Consideration for shares.** No corporation shall issue any share of stock, whether with or without par value, except in consideration of any one or any combination of more than one of the following: (1) money paid, (2) labor done, (3) services actually rendered, (4) debts or securities cancelled, (5) tangible or intangible property actually received, (6) amounts transferred to capital from any surplus of the corporation upon the issue of shares as a stock dividend; **provided,** however, that nothing in this section contained shall be construed to limit the power of any corporation to split up or subdivide or redivide its shares into a greater or lesser number of shares without transferring surplus to stated capital."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1955.) **H.B. 1210, Act 129.**

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## ACT 130

An Act to Amend Chapter 299 of the Revised Laws of Hawaii 1945, as Amended, Relating to Illegitimates and Paternity Proceedings.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 299 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending sections 12301 to 12309 inclusive, thereof to read as follows:

**"Sec. 12301. Petition against alleged father; time limit; preliminary examination.** Any unmarried woman or any married woman who was separated from and was not living with her husband prior to and at the time her child was conceived, when her pregnancy can be determined by competent medical evidence, or within two years after the delivery of her child, may petition the judge of the juvenile court of the circuit in which she or the alleged father of the child resides, or in which she was delivered of the child, for an adjudication of paternity and for other relief under the provisions of this chapter against the person whom she alleges is the father of such child.

The petition may also be filed by either of the parents or a guardian of the mother, or by any person as the next friend of the child, or by any public officer or employee concerned with the welfare of the child, within two years after the date of the child's birth. If, after the petition has been filed either by the mother

or by any one as above specified, the mother dies or refuses or neglects to prosecute the same, any of such persons may prosecute the case to final judgment for the benefit of the parent, guardian or the child, or any public or private agency supporting or contributing to the support of the child.

Before authorizing the issuance of process, the judge shall examine the petitioner, or shall cause the petitioner to be examined before him, under oath, concerning the residence, the circumstances and married or single condition of the mother when the child was begotten, the time and place where it was born, if born, and such other circumstances as the judge deems necessary or proper for testing the truth of the allegations of the petition. If the judge shall determine on the basis of such examination that there exists probable cause to believe that the child was begotten by the defendant, and that the petition was filed within the time limits herein set forth, he shall sign a written summary of the statement of the petitioner and shall authorize the issuance of process as hereinafter set forth.

The fact that a child is born dead or dies at a later date prior to the filing of a petition as above provided, or during the pendency of the proceedings, shall not operate as a bar to the issuance of process and the entry of a judgment under the applicable provisions of this chapter.

**Sec. 12302. Issuance of process; warrant, when; preliminary hearing; bond; jury trial, when.** The process hereinabove referred to shall be a summons and an order directed to the defendant requiring him to appear and to show cause why the prayer of the petition should not be granted.

If, at any stage of the proceeding, there appears probable cause to believe that the defendant will evade the service of process, or will fail to appear in response thereto, or will flee the jurisdiction of the court, the judge may issue a warrant directed to the high sheriff, his deputy, the sheriff of the city and county, or his deputy, or any police officer within the circuit, requiring the accused to be arrested and brought for preliminary hearing before the judge of the juvenile court. Upon such preliminary hearing, or at any time subsequent to the preliminary examination of the petitioner, the judge may require the defendant to enter into bond with good sureties to the Territory in a sum to be fixed by the judge for his appearance and the trial of the proceeding in the juvenile court. If the defendant shall fail to give the bond required of him, the judge may forthwith commit him to the custody of the sheriff or chief of police of the county, there to remain until he shall enter into the required bond or otherwise be discharged by due process of law.

In all proceedings under this chapter, the defendant shall, upon his written demand therefor, filed at the time of his appearance or within such time thereafter as the judge may allow, and if he appears at the time set for the trial, be entitled to a trial by jury; otherwise the trial shall be by the judge. No such trial shall take place prior to the birth of the child involved.

**Sec. 12302.01. Guardian ad litem for minor defendant; notice to parents.** If, at any stage of the proceeding, it appears to the satis-

faction of the judge of the juvenile court that the defendant is a minor, the judge shall cause notice of the pendency of the proceedings and copies of the pleadings on file to be served upon the legal parents or guardian of such minor and may appoint a guardian ad litem to represent the minor in the proceedings. If the legal parents or guardian of any such minor accused cannot be found, the notice above provided for may be served in such manner as the judge may direct, pursuant to the provisions of sections 10058 to 10062 inclusive.

**Sec. 12303. Trial; judgment.** If the defendant fails to appear, any bond for his appearance shall be forfeited; but the trial of, or other proceedings in, the cause shall, nevertheless, proceed as though he were present; and the court shall upon the findings of the judge make such orders as it deems proper as though the defendant were in court.

If the defendant acknowledges in writing or orally before the court the paternity of the child, or if at the trial the finding of the court or jury be against the defendant, the court, in rendering judgment thereon, may make an order for the payment of or reimbursement for all expenses resulting from or incident to the mother's pregnancy and the birth of the child in such amount or amounts as may be deemed reasonable by the court, and shall make an order that the defendant pay for the support, maintenance and education of the child, until the child reaches twenty years of age, unless the child, prior thereto is adopted, emancipated or becomes self-supporting, such sums of money, in such installments, and in such manner, as the court deems just, taking into consideration the financial standing of the defendant, his income, earning capacity, and those of his family who are dependent upon him for their support, maintenance and education.

In the event that the child dies before reaching twenty years of age, the judgment may include, or may be amended to include, reasonable funeral expenses. The judgment may also include a reasonable fee for any guardian ad litem appointed under the provisions of section 12302.01.

In case of forfeiture of any appearance bond, the money collected upon the forfeiture shall be applied in payment of the judgment against the defendant.

**Sec. 12304. Security for and enforcement of judgment.** A judgment, or any order, entered pursuant to the provisions of this chapter may be enforced by summary punishment for contempt pursuant to the provisions of section 11140. The judge may also require the defendant to give reasonable security, by way of bond or otherwise, for performance of the terms of the judgment. Upon neglect or refusal to give such security, or upon default of the defendant or his surety in compliance with the terms of the judgment, the judge may order the forfeiture of any such security and the application of the proceeds thereof toward the payment of any sums due under the terms of the judgment and may also sequester the defendant's personal estate, and the rents and profits of his real estate, and may appoint a receiver thereof, and may cause the defendant's personal

estate, including any salaries, wages, commissions or other monies owed to him, and the rents and profits of his real estate, to be applied toward the meeting of the terms of the judgment, to the extent that the judge, from time to time, deems just and reasonable.

**Sec. 12305. Mother as witness; immunity; corroboration.** The mother of the child shall be admitted as a witness in support of the petition and may be compelled to testify, but no criminal prosecution, other than a prosecution for perjury, shall afterwards be had against her for or on account of any transaction, matter or thing concerning which she may testify or produce evidence, documentary or otherwise. If, upon examination under the provisions of section 12301, and also in the time of her travail, she accuses the same person of being the father of the child, and continues constant in such accusation, her accusation in time of travail shall be admissible in evidence upon the trial to corroborate her testimony.

An acknowledgment by the defendant that he is the father of the child concerned shall not be used as a basis for any criminal prosecution against him for any offense involved in his past relationship with the child's mother.

**Sec. 12306. Compromise of case; consent of court necessary.** No petition filed under the provisions of this chapter shall be withdrawn, dismissed or settled by agreement with the defendant without the consent of the court, of the mother and of any person or persons who may have intervened under the provisions of section 12301, unless provision is made to the satisfaction of the court to relieve and indemnify any parent, guardian, county or the territory from all costs and charges which have accrued or may accrue and which might have been ordered to be paid by the defendant under the provisions of section 12303.

**Sec. 12307. Nature and title of proceedings; secrecy of proceedings and records.** The records in proceedings under the provisions of this chapter, which shall be deemed to be civil proceedings and shall be entitled "Paternity Proceedings," shall be open to inspection only by the parties or their attorneys, or by any proper person on a showing of good cause therefor, upon order of the court. All preliminary examinations and preliminary hearings shall be conducted in chambers and the judge may exclude from any trial any person whose presence he may deem to be prejudicial to the best interests of the child concerned.

**Sec. 12308. Recovery by civil action.** The mother of the child, and any parent, guardian or other person as the next friend of the child, county or the Territory, respectively, may, at any time after the entry of a judgment or order pursuant to the provisions of section 12303, recover by civil action against the accused any amount of money for which the accused is liable to them respectively in pursuance of any such judgment or order of the court.

**Sec. 12309. Prosecution within two years; county attorney to prosecute.** No petition under this chapter shall be filed more than two years after the birth of the child; **provided** that any period of time during which the person alleged to be the father of the child is absent from the Territory or is openly cohabiting with the

mother of the child or is contributing to the support of the child, shall not be computed.

The county attorney shall prosecute all proceedings arising under this chapter."

SECTION 2. Chapter 299 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by repealing **section 12310** thereof.

SECTION 3. This Act shall take effect on July 1, 1955, but shall not apply to any proceeding filed prior to such effective date.

(Approved May 13, 1955.) **H.B. 1230, Act 130.**

### ACT 131

An Act Amending Item "C" 15 of Act 282 (Series E-249), Session Laws of Hawaii 1953, Relating to the Transfer of Unexpended Monies.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any unexpended monies appropriated under Item "C" 15 of Act 282 (Series E-249), Session Laws of Hawaii 1953, for the construction of a road from Kokee to Haena on the island of Kauai are hereby reappropriated to the Department of Agriculture and Forestry, to be used in its discretion for the purpose of constructing and maintaining roads and trails in the Kokee area.

SECTION 2. This Act shall take effect upon approval.

(Approved May 13, 1955.) **H.B. 629, Act 131.**

### ACT 132

An Act to Amend Section 12271 of the Revised Laws of Hawaii 1945, as Amended, Relating to Adoption.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 12271** of the Revised Laws of Hawaii 1945, as amended by Act 115, Session Laws of Hawaii 1953, is hereby further amended by amending the second paragraph thereof to read as follows:

"Written consent must be given to the adoption by the child, if of the age of twelve years or over; and in all cases of adoption written consent shall be given by each of the living legal parents who has not been legally adjudged to be mentally ill or mentally incompetent to an extent requiring institutional care, or otherwise incapacitated from giving consent, or who has not abandoned the child for a period of six months, or who has not voluntarily surrendered the care and custody of the child to another for a period of two years or over, or whose parental rights have not been legally terminated pursuant to the provisions of chapter 300, as amended, or under the provisions of any other state, territorial or other law by a court or other agency having jurisdiction to take such action, which

fact of such mental illness, or mental incompetence or other incapacity, abandonment or surrender, or legal termination of parental rights shall be found by the judge at the time of hearing the petition and such finding noted in the decree. The minority of a child's legal parent shall not be a bar to the right of such parent to execute a valid and binding consent to the adoption of such child; **provided**, that the judge, if he deems it necessary and advisable, may appoint a guardian ad litem to represent and defend the interests of any such minor parent. If any nonconsenting legal parent is unknown or has so abandoned or surrendered the child, or if the rights of any nonconsenting legal parent have been terminated as aforesaid, the consent to adoption, in lieu of the consent of such parent, shall be signed by the legal guardian of the child or by any person authorized under the provisions of any judgment of termination of parental rights to sign such consent; or if there is no legal guardian, or no such authorized person, then the court, if it deems such action necessary, may appoint some suitable person to act in the proceedings as the next friend of the child; **provided**, that no hearing upon a petition for adoption, where the written consent of each of the living legal parents has not been obtained, shall be had until such nonconsenting parent has had due notice, actual or constructive, as herein-after provided, of the time and place of hearing; **provided**, further, that no such notice need be given to any such parent whose parental rights have been legally terminated as aforesaid. Any parental consent required as aforesaid shall be valid and binding even though it does not designate any specific adoptive parent or parents, if it clearly authorizes the department of public welfare, or a child placing organization approved by the department under the provisions of section 4830, as amended, or some proper person not forbidden by law to place a child for adoption, to select and approve an adoptive parent or adoptive parents for the child. A consent to adoption which has been filed or received in evidence in an adoption proceeding or which has been given to the department of public welfare or to a child placing organization approved by the department under the provisions of section 4830, as amended, or to any other proper person not forbidden by law to place or receive a child for adoption, may not be withdrawn or repudiated after the child has been placed for adoption, without the express approval of the judge based upon a written finding that such action will be for the best interests of the child. At any stage of the proceeding subsequent to the filing of the petition and prior to the entry of a decree, the judge, upon a showing that the best interests of the child will be served thereby, may order that the petitioner or petitioners shall be entitled to retain the custody and control of the child and shall be responsible for the care, maintenance and support of the child, pending the further order of the court."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1955.) **S.B. 794, Act 132.**

ACT 133

An Act to Repeal Sections 359, 360, and 361 of the Revised Laws of Hawaii 1945, as Amended, and to Provide a New Chapter of the Revised Laws Relating to Wages and Hours on Public Works.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Sections 359, 360 and 361 of the Revised Laws of Hawaii 1945, as amended, are hereby repealed in their entirety.

SECTION 2. A new chapter entitled "Wages and Hours of Employees on Public Works", to be appropriately numbered and placed, and its sections to be appropriately renumbered, is hereby added to the Revised Laws, to read as follows:

"Sec. 1. **Rate of wages for laborers and mechanics: contract and specification provisions.** (a) Every contract to which a governmental contracting agency is a party, for construction of any public work, and the specifications for such contract, shall state the minimum wages which shall be paid to the various classes of laborers and mechanics engaged in the performance of such contract on the job site.

(b) Such minimum wages shall be not less than the wages which the director, under the regulations of the commission, shall have determined to be the prevailing wages for corresponding classes of laborers and mechanics on projects of similar character in the Territory. Such prevailing wages shall be not less than the wages payable under federal law to corresponding classes of laborers and mechanics employed on public works in the Territory which are prosecuted under contract or agreement with the government of the United States.

(c) Such contract and specifications shall contain the provision that no laborer or mechanic employed on the job site of any public work of the Territory or any political subdivision thereof shall be required or permitted to work in excess of eight hours in any one day or in excess of forty hours in any one week unless he receives compensation for all hours worked in excess of such daily hours or in excess of such weekly hours at a rate not less than one and one-half times his basic hourly rate of pay.

Such overtime compensation shall be computed on a daily basis or on a weekly basis, whichever method of computation yields the greater amount of overtime compensation. In no event shall this section be deemed to require payment of both daily and weekly overtime compensation on account of the same hours worked.

(d) Every such contract and the specifications for such contract shall contain (1) a provision that the contractor or his subcontractor shall pay all mechanics and laborers employed on the job site, unconditionally and not less often than once a week, and without deduction or rebate on any account, except as allowed by law, the full amounts of their wages including overtime, accrued to not more than five working days prior to the time of payment, at wage rates not less than those stated in such contract and specifications, regardless of any contractual relationship which may be alleged to exist

between the contractor or subcontractor and such laborers and mechanics, and (2) a provision that the rates of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the job site.

(e) Every such contract and the specifications for such contract shall contain a provision that the governmental contracting agency may withhold from the contractor so much of the accrued payments as the governmental contracting agency may consider necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the job site the difference between the wages required by such contract or specifications and the wages received and not refunded by such laborers and mechanics.

**Sec. 2. Termination of work on failure to pay agreed wages; completion of work; contract and specification provision.** Every such contract and the specifications for such contract shall contain a provision that if the governmental contracting agency finds that any laborer or mechanic employed on the job site by the contractor or any subcontractor has been or is being paid wages at a rate less than the required rate by the contract or the specifications, or has not received his full overtime compensation, the governmental contracting agency may, by written notice to the contractor, terminate his right, or the right of any subcontractor, to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid and may complete such work or part by contract or otherwise, and the contractor and his sureties shall be liable to the governmental contracting agency for any excess costs occasioned thereby.

**Sec. 3. Enforcement.** (a) The governmental contracting agency shall (1) pay or cause to be paid, directly to laborers and mechanics, from any accrued payment withheld under the terms of the contract, any wages or overtime compensation found to be due to laborers or mechanics under this chapter, (2) order any contractor to pay any wages or overtime compensation which such contractor, or any of his subcontractors, should have paid to any laborer or mechanic under any contract subject to this chapter, and (3) report to the director any violation of this chapter.

(b) Where the director, either as a result of a report by a contracting agency or as a result of his own investigation finds that a first violation of this chapter has been committed, he shall warn the contractor or subcontractor involved, and if such contractor or subcontractor promptly makes his employees whole for any wages or overtime compensation due, no further action shall be taken. Where a second or a third violation subsequently occurs, whether on the same contract or another, within two years of the first violation, the director shall serve a written complaint on the person or firm involved. If after proper notice and opportunity for hearing before the labor and industrial relations appeal board said appeal board shall find that any person or firm has knowingly violated the provisions of this chapter, the appeal board shall order such person or firm, if it be a second violation, to pay a penalty of no more than 5% of the total contract amount, or if it be a third violation the



appeal board shall order the person or firm suspended from doing any work on any public work of a governmental contracting agency for a period of three years. If any person or firm, after warning, or after assessment of the above penalty, shall fail to make his or its employees whole for wages or overtime pay due them under the contract, or shall fail to pay any penalty assessed, the appeal board may suspend such person or firm as provided herein. However, on application by the suspended person or firm, no less than one year from the date of suspension, the appeal board may, after hearing, shorten such term of suspension. The director shall immediately notify the auditors of the Territory, the city and county of Honolulu, and the counties of any suspension order.

Any suspension order made under this paragraph, and any order dismissing any complaint under this paragraph, shall be subject to appeal under Rule 72 of the Hawaii Rules of Civil Procedure by the party aggrieved, whether the person or firm or the director, to the circuit court for trial de novo on the facts and the law. On complaint by the director as in a civil action, the circuit court shall enforce any suspension order made by the appeal board by injunction against any contractor, subcontractor, or officer or employee of the Territory, the city and county of Honolulu, or any county.

(c) No contract shall be awarded to the person or firm so suspended or to any firm corporation, partnership, or association in which such person or firm have an interest, direct or indirect, until three years have elapsed from the date of suspension, unless the period of suspension is reduced as herein provided. Any contract awarded in violation of this paragraph shall be void.

(d) If the accrued payments withheld under the terms of the contract, as aforesaid, are insufficient to reimburse all the laborers and mechanics for wages or overtime compensation due under this chapter, and the contractor has knowingly failed to pay such wages or overtime compensation, the contractor and his sureties shall be liable to such laborers and mechanics in the amount of the unpaid wages and overtime compensation due and in an additional equal amount as liquidated damages. However, any action against a surety or sureties shall be governed by and limited to the provisions of section 8768 of the Revised Laws of Hawaii 1945, and any claim for liquidated damages, in so far as the surety or sureties is concerned, shall not be paid until the claims of all other creditors have been satisfied. Action to recover unpaid wages or overtime compensation may be maintained in any court of competent jurisdiction by any one or more laborers or mechanics for and in behalf of himself or themselves and other similarly situated. No laborer or mechanic shall be a party plaintiff to such action unless he gives his consent in writing and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. It shall be no defense that such laborers and mechanics accepted or agreed to accept less than the required rate of wages or overtime compensation or voluntarily made refunds.

(e) When a written request is filed by any laborer or mechanic with the director claiming unpaid wages or overtime compensation under this chapter, the director may bring an action in any court of competent jurisdiction to recover the amount of such claim. The consent of any laborer or mechanic to the bringing of such action by the director, unless such action is dismissed without prejudice on motion of the director, shall constitute a waiver by such laborer or mechanic of any right of action he may have under subsection (d) of this section. Any amount recovered by the director before suit and accepted by such laborer or mechanic as payment in full shall constitute a waiver of any rights under the aforementioned subsection (d).

(f) The director shall have the power to investigate on the job site, to inspect books and records of any contractor, either during or after the performance of any contract, or to subpoena such books and records, in order to determine compliance with this chapter. If any contractor shall interfere with or wilfully evade any such investigation or inspection by the director or his agent, the governmental contracting agency, on receipt of written notice from the director of such interference or wilful evasion, shall withhold all further payments from the contractor until the director has notified such governmental contracting agency in writing that the interference or wilful evasion has ceased.

**Sec. 4. Regulations.** Subject to sections 466 to 476 of the Revised Laws of Hawaii 1945, as amended, the commission shall make reasonable regulations for the determination by the director of prevailing wages under this chapter, for the enforcement and administration of this chapter, and for the general purposes of this chapter. Such regulations shall have the force and effect of law.

**Sec. 5. Application of this chapter to contracts entered into without regard to other laws.** The fact that a contract is or was entered into without regard to section 351 or chapter 9 of the Revised Laws of Hawaii 1945, or upon a cost-plus-a-fixed fee basis, or cost-plus-a-fixed percentage basis, or without advertising for proposals, shall not render this chapter inapplicable to such contract, if otherwise this chapter would be applicable.

**Sec. 6. Effect on other laws.** Neither this chapter nor any regulation or other action under this chapter shall supersede or impair any minimum wage or maximum hour law or any authority otherwise granted by law to provide for the establishment of specific minimum or other wage rates.

**Sec. 7. Suspension during emergency.** During a national emergency declared by the President or the Congress of the United States, or a territorial emergency declared by the governor, the governor may by executive order in writing suspend the provisions of this chapter.

**Sec. 8. Definitions.** As used in this chapter, the following words and phrases shall have the following corresponding meanings:

(a) 'Governmental contracting agency' means the Territory of Hawaii, the city and county of Honolulu, any county, and any offi-

cer, bureau, board, commission or other agency or instrumentality thereof;

(b) 'Director' means the director of labor and industrial relations of the Territory of Hawaii;

(c) 'Commission' means the commission of labor and industrial relations of the Territory of Hawaii;

(d) 'Construction' includes alteration, repair, painting, and decorating;

(e) 'Basic hourly rate' means the hourly wage paid to a laborer or mechanic as compensation for work actually performed during non-overtime hours, but in no event shall this wage be less than the minimum wages established under this chapter.

Sec. 9. In the event that work performed in accordance with this chapter in excess of eight hours in any day or forty hours in any one week or on a territorial holiday requires inspectional service by the Territory or any political subdivision thereof, such service shall be furnished by the Territory or such political subdivision, as the case may be, and in such event it shall be lawful, notwithstanding any other provisions of law to the contrary for the Territory or any political subdivision thereof to alter the normal working hours of such public employees as may be necessary for such purpose and to pay such public employees for all hours worked in excess of eight hours per day and forty hours in any one week or on a territorial holiday."

SECTION 3. This Act shall take effect ninety days after its approval by the governor, but shall not affect any contract then existing or any contract that may thereafter be entered into pursuant to invitation for bids that are outstanding on the effective date.

(Approved May 16, 1955.) **H.B. 14, Act 133.**

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## ACT 134

An Act Relating to the Registration of Land Court Titles and Amending Section 12691 of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 12691 of the Revised Laws of Hawaii 1945, is hereby amended by amending the last sentence thereof to read as follows:

"Any person who acquires title or any interest in registered land through or by virtue of the execution of the power, may have the title or interest registered."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1955.) **S.B. 412, Act 134.**

**ACT 135**

An Act to Amend Sections 12718 and 12719, Revised Laws of Hawaii 1945, Relating to Annual Indexes and Decennial Indexes in the Bureau of Conveyances.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 12718 of the Revised Laws of Hawaii 1945, is hereby amended as follows:

1. By deleting from said section the third sentence beginning in the ninth line thereof starting with the word "He", and including the paragraph numbered "(1)".

2. By adding a second paragraph to read as follows:

"The registrar shall cause to be made a reclassification and consolidation of the yearly indexes as the convenience of the registrar may permit. He may also cause copies of the indexes or new indexes to the records existing in his office to be made by some competent person as conditions may require."

**SECTION 2.** Section 12719 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"**Sec. 12719. Decennial indexes.** The registrar shall cause a reclassification and consolidation of the yearly indexes referred to in section 12718 to be made at least once in every ten years as the convenience of the registrar may permit, in the same manner as set forth in said section. And he may cause copies of the indexes or new indexes to the records existing in his office, to be made by some competent person in the same manner as set forth in said section."

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 16, 1955.) **S.B. 480, Act 135.**

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**ACT 136**

An Act Relating to the Department of Public Instruction, and Authorizing it to Acquire and Dispose of Automobiles for Driving Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Any provisions of chapters 9 and 26 of the Revised Laws of Hawaii 1945 notwithstanding, the department of public instruction may enter into agreements with any dealer or company for the purchase of automobiles for driving instruction in the territorial public schools, such agreements to provide that the department pay \$1 for each automobile, take title thereto in the name of the Territory and agree to resell it to the seller for \$1 within sixty days following the last day of the school year. In the event of the seller's failure to repurchase, the department may retain the automobile or dispose of it in accordance with the provisions of chapter 26 of the Revised Laws.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 17, 1955.) **H.B. 83, Act 136.**

ACT 137

An Act Amending the Title of Chapter 138 of the Revised Laws of Hawaii 1945, as Amended, Relating to Motor Vehicles, Chauffeur's and Operator's License; Registration and Adding Thereto Part III Relating to Automobile Driving Instructor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 138 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(1) By amending the title to chapter 138 as follows:

"Chapter 138. MOTOR VEHICLES: CHAUFFEUR'S, OPERATOR'S AND INSTRUCTOR'S LICENSE; REGISTRATION."

(2) By adding a new part to chapter 138 to provide as follows:

"PART III. AUTOMOBILE DRIVING INSTRUCTOR.

**Sec. 7349. Definition.** The following words and phrases when used in this part shall, for the purpose of this part, have the meanings respectively ascribed to them in this section:

'Automobile driving instructor': every person who instructs another person in the rudiments and mechanics of the operation of a motor vehicle.

'Chief of police': the chief of police of each county and city and county and his authorized subordinates charged with the duty of administering the provisions of this part.

'Motor vehicle': every vehicle which is self propelled, but shall not include road rollers, farm tractors, tractor cranes, power shovels and well drillers.

'Person': every natural person.

'Proof of financial responsibility': proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of \$5,000.00 because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of \$10,000.00 because of bodily injury to or death of two or more persons in any one accident, and in the amount of \$1,000.00 because of injury to or destruction of property of others in any one accident.

'Treasurer': the treasurer of each county and city and county and his deputies.

**Sec. 7350. Automobile driving instructor must be licensed.** No person shall engage in the business of an automobile driving instructor for hire or reward without having first obtained a license to do so from the treasurer wherein such person intends to carry on such business.

**Sec. 7351. Application, fee.** Every application for a license to the treasurer shall be accompanied by a statement from the chief of police that he has fulfilled the requirements for an automobile driving instructor as hereinafter provided; shall furnish satisfactory proof of financial responsibility by the filing of a motor vehicle liability policy subject to cancellation only after ten days written notice filed with the treasurer of any insurance car-

rier duly authorized to do business in the Territory in behalf of such applicant; and shall furnish such information and such references as to moral character as the treasurer may reasonably require. The treasurer shall issue a license to the applicant upon the payment of an annual license fee of ten dollars (\$10.00).

**Sec. 7352. What persons shall not be licensed.** The chief of police of each county shall not issue any statement as provided in section 7351:

1. To any person whose operator's license has been suspended by a court of competent jurisdiction during such suspension period, nor to any person whose license has been revoked until the expiration of one year after the date of such revocation; nor to any person who, while unlicensed, has within two years been convicted of driving while drunk.

2. To any person who is under the age of 20 years.

3. To any person who is known and verified to be a habitual drunkard or an addict to the use of narcotic drugs.

4. To any person who has been previously adjudged to be afflicted with or suffering from any mental disability or disease and who has not at the time of application been restored to competency by the methods provided by law.

5. To any person who has failed to successfully pass an examination as conducted in accordance with the standard requirement prescribed by the rules and regulations previously made by the examiner of chauffeurs and approved by the chief of police.

6. To any person who is required by the provisions of the motor vehicle financial responsibility laws of this Territory to deposit proof of financial responsibility and who has not deposited such proof.

7. To any person who has been convicted of a felony or a misdemeanor involving moral turpitude.

8. To any person, when the examiner of chauffeurs has good cause to believe that such person, by reason of physical or mental disability, would not be able to maintain under control a motor vehicle in safety while such vehicle is being operated by his pupil, on the highways; **provided** however, that any person denied a license under this or any other section of this part shall have a right to appeal to a circuit court judge at chambers of the circuit court of the circuit in which the applicant resides by filing his petition in such court within twenty days of the date of the refusal of such license.

**Sec. 7353. Authority of treasurer to cancel license.** The treasurer is hereby authorized to cancel any automobile driving instructor's license upon written notification by the chief of police that the licensee has violated any of the sections of this part or when the insurance carrier has cancelled the motor vehicle liability policy. Upon such cancellation, the licensee shall surrender the license so cancelled to the treasurer.

**Sec. 7354. Penalty.** Any person who shall violate any of the provisions of this part shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment for a term not exceeding one year, or by both fine and imprisonment."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 17, 1955.) **H.B. 1009, Act 137.**

## ACT 138

An Act to Amend Act 245, Session Laws of Hawaii 1953, Relating to the Hawaii Irrigation Authority, and Adding Several New Sections thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, is hereby amended in the following respects:

(a) Paragraph 3 of section 3 is hereby amended to read as follows:

"'Project' or 'irrigation project' shall mean an area, contiguous or non-contiguous, established under the provisions of this Act within which water is supplied to the Territory of Hawaii or the Hawaiian Homes Commission for the development and opening of lands for small scale farming or to land occupiers engaged in small scale farming."

(b) Paragraph 5 of section 3 is hereby amended to read as follows:

"'Small scale farming' shall mean agricultural pursuits, including the care and production of livestock and poultry, engaged in by a land occupier owning or having a leasehold of land, within any existing or proposed irrigation project, which includes not more than sixty (60) acres of agricultural land or one hundred (100) acres of pasture land. Where any such land occupier owns or has a leasehold or both agricultural and pasture land, the foregoing acreage limits shall be applied by adding the following items: (a) the number of acres of agricultural land multiplied by one and two-thirds, and (b) the number of acres of pasture land; and the sum of said items (a) and (b) shall not exceed one hundred (100)."

(c) Paragraph 6 of section 3 is hereby amended to read as follows:

"'Water tolls' shall mean any charges established by the authority for irrigation water supplied by it to the Territory of Hawaii, the Hawaiian Homes Commission, and land occupiers."

(d) Paragraph 7 of section 3 is hereby amended to read as follows:

"'Acreage assessments' shall mean any levy imposed pursuant to the provisions of this Act on the agricultural and pasture land within an irrigation project and any amount charged to the Territory of Hawaii or the Hawaiian Homes Commission for the purpose of acquiring, establishing or maintaining irrigation facilities for an irrigation project."

(e) Paragraph 8 of section 3 is hereby amended to read as follows:

"'Land occupier' shall mean the owner, or in the case of leased land, the lessee of lands lying within an irrigation project organized or to be organized under the provisions of this Act."

(f) A new paragraph is hereby added to section 3, to be inserted between paragraphs 8 and 9 of said section, to read as follows:

"'Leased land', 'leasehold' and similar expressions wherever used in this Act shall be deemed to include land subject to and held under lease or other tenancy, purchase or homestead agreement; 'lease' wherever used herein shall be deemed to mean such lease, tenancy, purchase or homestead agreement; 'lessor' wherever used herein shall be deemed to include the lessor, landlord, seller or Territory of Hawaii as grantor of the homestead and 'lessee'

wherever used herein shall be deemed to include the lessee, tenant, purchaser or homesteader under such lease or other agreement, as the case may be."

(g) Paragraph 9 of section 3 is hereby amended to read as follows:

"'Agricultural land' shall mean that portion of the land of a land occupier as lies within an existing or proposed irrigation project and is of such location and character as may be profitably employed in the growing of irrigated crops; and 'pasture land' shall mean that portion of the land of a land occupier as lies within an existing or proposed irrigation project and is of such location and character as may be suitable with the use of water for irrigated pasture and may be profitably employed in the production of livestock or poultry."

SECTION 2. Sections 6 and 7 of the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, are hereby renumbered as sections 7 and 8, respectively.

SECTION 3. A new section, to be numbered section 6, is hereby added to the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, to read as follows:

"Section 6. **General management.** The authority shall appoint a registered professional engineer who shall have such qualifications as the board may deem necessary, and shall have full power to administer the affairs of the authority, subject to the direction and approval of the authority. He shall be known as the manager-chief engineer of the Hawaii Irrigation Authority, and shall receive such salary as the authority may provide, and shall hold office at the pleasure of the authority.

The manager-chief engineer shall, subject to the approval of the authority, have power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the authority. All such appointments, suspensions or removals shall be made, and the qualifications, duties and compensation of such employees, subordinates and assistants shall be determined, in accordance with the provisions of chapters 2 and 3, Revised Laws of Hawaii 1945, as amended. The civil service and classification laws shall not, however, be applicable to the manager-chief engineer."

SECTION 4. Section 8 of the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, is hereby renumbered as section 9 and amended in the following respects:

(a) In the eighth line of the second paragraph of said section, the semicolon following the word "situated" is deleted and a comma inserted in its place.

(b) In the ninth line of the second paragraph of said section, the words "already irrigated" are inserted between the words "of" and "land".

(c) In the tenth line of the second paragraph of said section, the word "such" appearing between the words "from" and "project" is deleted and in its place the following words are inserted: "those of their sources and facilities which are taken over for the".

(d) The third paragraph of said section is amended to read as follows:



"To make surveys for the purpose of determining the engineering and economic feasibility of each project; to conduct or have prepared comprehensive studies of the crops, livestock and poultry which may be profitably grown or produced within each project and the probable market for such crops, livestock and poultry; to determine the probable costs and value of providing irrigation water in any proposed project; to investigate and make surveys of water resources, including the possibility and feasibility of inducing rain by artificial or other means; to define and redefine the boundaries of projects and to consolidate or separate projects, existing or proposed pursuant to this Act, provided, however, that in the event the redefinition of the boundaries of or the consolidation or separation of any existing project or projects will of itself or in conjunction with any redefinition, consolidation or separation previously effected, increase the total amount required to be derived from acreage assessments upon lands within the existing project or projects by more than five per centum (5%) or will require an increase in the tolls charged for water supplied to such lands or will reduce the amount of water normally available for distribution to such lands, then such redefinition, consolidation or separation may be accomplished only after notice has been published and a public hearing held as required for the formation of a project upon the initiative of the authority. At such hearing rights to protest and the procedure relative to protest shall be the same as specified in section 22 concerning the formation of projects, and the proposed redefinition of boundaries, consolidation or separation of projects shall not be accomplished if protests, such as would be sufficient to prevent such action if it were the formation of a project, are filed by owners and lessees of lands within the existing project or projects affected thereby."

(e) In the second line of the fourth paragraph of said section, the figure "16" is changed to "18", and between the comma following the word "herein" and the word "or", the following words are inserted: "or upon petition of the Hawaiian Homes Commission or the Territory of Hawaii through its commissioner of public lands".

(f) In the third line of the fifth paragraph of said section, between the words "set" and "tolls" appearing therein, the words "and from time to time revise" are inserted.

(g) In the fifth line of the fifth paragraph of said section, between the semicolon following the word "hereunder" and the word "to", the following words are inserted: "to establish priorities between the several lands included in a project according to the use to which said lands are put or other reasonable basis for classification, to govern the furnishing of water in the event of a shortage of supply and to correlate water tolls with such priorities;"

(h) A new paragraph is hereby added to said section, to read as follows: "In making surveys, studies and investigations, in planning and designing and in constructing irrigation projects and facilities, the authority shall also have power to include therein surveys, studies and investigations of, plans and designs for and construction of facilities for flood control and the utilization of water for the production of

hydroelectric power, where the same may be practicable in conjunction with the formation and operation of an irrigation project or projects."

SECTION 5. Sections 9 to 15 inclusive of the Hawaii Irrigation Act are hereby renumbered as sections 10 to 16 inclusive, and amended as follows:

(a) The title of section 15 is changed to read "Rate policy; sale of excess water."

(b) A new paragraph is hereby added at the end of section 15 to read as follows:

"Nothing in this Act shall be construed to prevent the authority from selling water to persons other than land occupiers and other consumers within an irrigation project in the event and to the extent that water in excess of the needs of such land occupiers and other consumers which may from time to time be available."

SECTION 6. The four paragraphs of section 16 of the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, are hereby renumbered as sections 17, 18, 21 and 22, respectively, and amended as follows:

(a) The first paragraph of section 16 is hereby renumbered as section 17 and amended to read as follows:

"Section 17. **Lands included within irrigation projects.** Except as otherwise expressly permitted in this chapter, lands to be included within an irrigation project shall be only those used or to be used in small scale farming. The number of acres of agricultural and pasture land of each land occupier within the project shall be determined by the authority and shall not be increased or decreased, nor shall any such land included within a project thereafter be withdrawn, after final determination to construct the project except in the manner and with the limitations specified in this Act for redefining the boundaries of a project. The project shall include only such lands as can be adequately irrigated by the quantity of water and irrigation facilities to be provided under normal conditions of supply. No land which at the time of formation of the project is irrigated, or is devoted to the cultivation for commercial purposes of sugar, pineapples, coffee, bananas, citrus, papayas or macadamia nuts, or other horticultural crops, whether or not such land so devoted is irrigated, or is being devoted to an industrial or townsite or other use of greater economic value than agriculture, shall be included in such project if the owner of such land (or the land occupier thereof if other than the owner, in the event that such land occupier is legally chargeable with the acreage assessments) shall object in writing to such inclusion. The foregoing provisions of this paragraph shall be applicable to all irrigation projects.

Notwithstanding the limitation expressed in the foregoing paragraph, lands of the Territory of Hawaii used by the University of Hawaii for experimental farms may be included in irrigation projects, provided the board of regents undertakes the payment of water tolls and acreage assessments and for the purposes of such inclusion the University of Hawaii shall be deemed a land occupier within the meaning of this Act. Lands within such farms shall be assessed accordingly as the same are of the character for use as agricultural or

pasture lands, as defined in this chapter, although they are used for experimental purposes. Such assessments shall not, however, become a lien upon said lands."

(b) The second paragraph of section 16 is hereby renumbered as section 18 and amended to read as follows:

"Section 18. **Petition of land occupiers for formation of irrigation project.** Land occupiers, including the Territory of Hawaii and the Hawaiian Homes Commission, comprising at least sixty per centum (60%) of the acreage of lands lying within an area proposed to be organized into an irrigation project may file a petition with the authority requesting that such project be organized. Where any of the lands of such petitioners in the proposed area are leased lands, it shall be necessary for the lessor and lessee to join in such petition. The petition shall contain a general description and the acreage of the area proposed to be organized into an irrigation project and shall state the acreage owned or leased by each of the petitioners within that area. Before the authority shall commence any irrigation project involving homesteaded lands of the Hawaiian Homes Commission, it shall require the commission to assure the payment of any acreage assessment thereon, in pursuance of section 208(5) of the Hawaiian Homes Commission Act, 1920."

(c) The third paragraph of section 16 is hereby renumbered as section 21 and amended to read as follows:

"Section 21. **Consideration of petitions; notice and hearing.** Where more than one petition is filed covering portions of the same territory, the authority may consolidate the petitions. Having received such petitions, on the basis of such evidence as may be submitted to it by the petitioners and on the findings of investigations or surveys made by or for it, or by other governmental agencies, the authority shall establish such irrigation projects as it deems necessary to carry out the purposes of this Act. Before making a final determination to establish a project or projects, the authority shall hold a hearing, notice of which shall be duly advertised in the same manner and form, as nearly as may be, as in the following section provided."

(d) The fourth paragraph of section 16 is hereby renumbered as section 22 and amended to read as follows:

"Section 22. **Formation of irrigation project on initiative of authority; notice and hearing; protests.** The authority may organize irrigation projects upon its own initiative. In such event, it shall fix a date for public hearing upon the proposed project, which date shall be not less than sixty (60) days after the first publication of notice thereof in a newspaper of general circulation in the county in which the project is proposed. Such notice shall be published once in each of four successive weeks, giving notice of the area to be included in and general details of the proposed project, stating the time and place of the public hearing. If the owners of fifty-five per centum (55%) of the acreage of agricultural and pasture lands proposed to be organized into an irrigation project shall at the hearing or prior thereto file written protest against the proposed project, the project shall not be made and proceedings shall not be renewed within twelve (12)

months from the date of closing the public hearing, unless each and every owner protesting shall withdraw his protest; **provided**, however, that any lessee or any agricultural or pasture lands included within the proposed project, who, by the express terms of his lease must pay the assessment contemplated hereunder shall be subrogated to all the rights of such owner to protest by filing at the hearing or prior thereto written protest against the proposed project, such written protest to be accompanied by a certified copy of the lease; **provided**, further, that any lessor may, at any time before the closing of the public hearing, make void the protest of his lessee on consideration of the filing with the authority a duly acknowledged waiver of the provision in the lease which requires the lessee to pay the assessment, and a written undertaking of the lessor to pay the assessment to be made on account of the proposed project; and further **provided** that a project may be instituted without further advertisement for a smaller acreage within the advertised acreage in the event the authority shall determine such smaller project to be economically feasible, if written protests by the owners, or lessees subrogated to the right to protest, of fifty-five per centum (55%) of such smaller acreage shall not be filed."

SECTION 7. A new section is added to the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, to be numbered section 19 and to read as follows:

"Section 19. **Petition of Hawaiian Homes Commission for formation of irrigated project, community pastures.** The Hawaiian Homes Commission may petition the authority to organize irrigation projects for any of the lands designated as 'available lands' in the Hawaiian Homes Commission Act, 1920, whether or not such lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to said lands, no notice need be published nor public hearing held as in Section 21 required. Project water may be supplied to community pastures established by the Hawaiian Homes Commission within any project even though such pastures exceed one hundred (100) acres in area. Before the authority shall commence any irrigation project involving community pastures it shall require agreement from the Hawaiian Homes Commission that tolls for water supplied to and acreage assessments upon such pastures shall be paid by the commission. Before the authority shall commence any irrigation project involving available lands which the Hawaiian Homes Commission desires to develop and open for small scale farming it shall require agreement from the Hawaiian Homes Commission that in the event the development and opening of said lands does not enable the making of acreage assessments sufficient to repay the costs of construction of the project that the same will be paid by the commission. The payments referred to in this section may be made by the Hawaiian Homes Commission from any of its funds designated or created by Congress for that purpose."

SECTION 8. A new section is added to the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, to be numbered section 20 and to read as follows:

**"Section 20. Petition by Territory of Hawaii for formation of irrigation project.** The Territory of Hawaii, through its commissioner of public lands, may petition the authority to organize irrigation projects for lands under its control, whether or not such lands are occupied in whole or in part. If the lands for which the proposed project is to be organized are not occupied or are occupied by persons whose rights to occupancy will expire before the project water will be supplied to said lands, no notice need be published nor public hearing held as in section 21 required. Before the authority shall commence any irrigation project involving lands of the Territory of Hawaii, it shall require agreement from the commissioner of public lands that the costs of construction of the project, if the same is organized for the development and opening of lands of the Territory of Hawaii for small scale farming, shall be paid by the commissioner in the event and to the extent that the development and opening of said lands does not enable the making of acreage assessments sufficient to repay such construction costs. The authority shall also require agreement from the commissioner, before commencing any irrigation project involving lands of the Territory of Hawaii, that any acreage assessment on such lands within the project shall be paid by the commissioner in the event the person in possession of any such land fails to pay the assessments. The payments referred to in this section may be made by the commissioner from any funds in the territorial treasury derived from the lease or license of public lands or waters, which funds are hereby made available for such purposes. An agreement by the commissioner of public lands to make such payments shall constitute a charge upon such funds."

SECTION 9. Section 17 of the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, is renumbered as section 23 and is hereby amended in the following respects:

(a) In the third line of the first paragraph of said section, the word "within" appearing between the words "facilities" and "each" is deleted and the word "for" substituted in its place.

(b) In the fourth line of the first paragraph of said section, the word and figure "section 16" are changed to the words and figures "sections 18, 19, 20 and 22".

(c) The second paragraph of said section is deleted.

SECTION 10. Section 18 of the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, is renumbered as section 24 and the first two paragraphs of said section are hereby amended to read as follows:

**"Section 24. Administration of irrigation project; acreage assessments; liens.** All irrigation projects established pursuant to the provisions of this Act shall be administered by the authority. In making the final determination to establish a project, the authority shall determine the proportion of acreage assessments to be borne by the agricultural land and pasture land within the project. The proportion to be borne by pasture land may, in the discretion of the authority, be less but not more than the proportion, to be borne by agricultural land, in which event the agricultural land shall be first served with water in times of drought or shortage of supply. The pro-

portions to be borne by agricultural and pasture lands shall be certified to the tax commissioner and shall not be changed after final determination to establish the project, except in conjunction with a redefinition of the boundaries of or consolidation or separation of the project and then only in the manner and within the limitations specified in conjunction therewith. The authority shall determine and certify to the tax commissioner on or before March 31 of each year (a) the amount for acreage assessments necessary in that calendar year for acquisitions, construction and maintenance of irrigation facilities for each project, and (b) the acreage of agricultural and pasture land of each land occupier within said project.

Upon such certification the tax commissioner, or his properly authorized deputies or other assistants, shall determine the acreage assessment to be levied against the property of each land occupier in the following manner: (a) by determining the amount of acreage assessments to be borne by the agricultural land and the pasture land within the project according to the proportion previously certified to him by the authority; (b) by dividing the amount of acreage assessment to be borne by the agricultural land by the number of acres of agricultural land within the project and multiplying the quotient by the number of acres of agricultural land of said land occupier within the project; and (c) by dividing the amount of acreage assessment to be borne by the pasture land by the number of acres of pasture land within the project and multiplying the quotient by the number of acres of pasture land of said land occupier within the project. Such acreage assessments shall be in addition to any real property taxes, and shall be collected by the tax commissioner in the same manner as said taxes. Except in the case of public lands and lands designated as 'available lands' under the Hawaiian Homes Commission Act, 1920, acreage assessments shall be a paramount lien against the entire tract, including improvements, of the land occupier of which the assessed agricultural and/or pasture land of the land occupier included within the project forms a part. Said lien may be foreclosed in the same manner as liens for real property taxes and in accordance with the provisions of sections 5167 and 5168, as amended, of the Revised Laws of Hawaii 1945. In case of the foreclosure of any homestead land pursuant to said sections 5167 and 5168, the foreclosure sale shall be subject to the provisions of section 73(g) of the Hawaiian Organic Act. In the case of public lands and lands designated as 'available lands' under the Hawaiian Homes Commission Act, 1920, acreage assessments shall not constitute a lien on the property involved and notice of any delinquent acreage assessment shall be served upon the commissioner of public lands and the Hawaiian Homes Commission, as the case may be, for payment."

**SECTION 11.** Sections 19 to 21 inclusive of the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, are renumbered as sections 25 to 27 inclusive, and sections 23 to 25 inclusive are renumbered as sections 31 to 33 inclusive. Section 22 of said Act is hereby renumbered as section 28 and amended to read as follows:

"Section 28. **Limitation of authority.** No irrigation projects shall be organized or established in the city and county of Honolulu

without the authority first consulting the board of water supply of the city and county of Honolulu and the suburban water system of the city and county of Honolulu."

**SECTION 12.** Two new sections are hereby added to the Hawaii Irrigation Act, enacted by Act 245, Session Laws of 1953, to be numbered sections 29 and 30 and to read as follows:

"**Section 29. Furnishing domestic water.** In conjunction with any irrigation project which it has established, and subject to pertinent provisions of law governing such supply, the authority is authorized to establish a system for and to supply water for domestic purposes to residents within and in close proximity to the irrigation project. Such system shall be established only if (a) the authority determines that it would be advisable and in the public interest to provide such domestic supply; (b) its construction and operation by the authority has been consented to by the board of water supply of the county in which the project is situated, or if situated in the city and county of Honolulu by the board of water supply or the suburban water system of said city and county, as appropriate, and by a majority of the land occupiers within the irrigation project; and (c) if under normal conditions of water availability, the operation of said system will not prejudice or interfere with the supply of irrigation water to the land occupiers within the project. Upon the establishment of any such system for the supply of domestic water, the authority shall charge such rates for the water supplied from such system as will fully cover the cost of the water supplied and operation and maintenance of said system, said rates in any event to be not less than the tolls charged for irrigation water supplied to agricultural and pasture lands within the project, and the authority may make such other charges against the consumers of said domestic water as may be necessary to cover the capital cost of such system or other costs incurred in connection with such system. The authority is also authorized, subject to the limitations previously set forth in this section, to take over, improve and operate any existing system for the supply of domestic water if requested so to do by the owners and operators of such system."

**Section 30. Accounts.** The authority shall maintain proper accounts in such manner as to show the true and complete financial status and the results of management and operation, both as to all activities of the authority and as to the management and operation of each project established under the provisions of this act."

**SECTION 13.** This Act shall take effect upon its approval, except as to section 7 hereof, which section shall not become effective until Congress enacts legislation to give the Hawaiian Homes Commission authority to commit itself to make the payments therein referred to and creates or designates the fund from which such payments are to be made.

(Approved May 17, 1955.) **S.B. 556, Act 138.**

**ACT 139**

An Act to Amend Section 6591 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Disposition of Unappropriated Surplus and Unencumbered Balances of any Appropriations in any Fund of the City and County of Honolulu at the End of any Fiscal Year, and Relating to the General Emergency Reserve Fund.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6591 of the Revised Laws of Hawaii 1945, as amended by Act 160 of the Session Laws of Hawaii 1949, is hereby amended to read as follows:

**"Sec. 6591. Fund balances and reserve.** All unappropriated surplus and all unencumbered balances of any appropriations in any fund, excepting appropriations and reappropriations out of proceeds of bonds issued for purposes of improvements, at the end of any fiscal year shall be available for appropriation for the succeeding fiscal year; **provided,** however, that the controller shall transfer all such surplus and unencumbered balances of any appropriations of the general fund, but not in excess of fifty thousand dollars (\$50,000.00) for any fiscal year, to the general emergency reserve fund, until such time as the cash balance in such reserve fund shall amount to ten per cent (10%) of the annual general fund appropriations for the preceding year; **provided,** however, that no appropriation from such reserve fund shall be made except upon recommendation of the mayor and the approval of the five members of the board of supervisors. The controller may authorize loans from the general emergency reserve fund to other funds temporarily requiring cash."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 17, 1955.) S.B. 804, Act 139.

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**ACT 140**

An Act Relating to Zoning Regulations Amending Section 6644 of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The third paragraph of section 6644 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"(2) The board of supervisors may upon its own initiative at any time, by the affirmative vote of a majority of the members of said board, adopt an ordinance for any such purpose subject to any limits provided by statute; such ordinance shall thereupon be submitted to the commission which shall thereupon proceed to act upon the same in the same manner as to published notice and hearing as upon an application made pursuant to section 6645, and such ordinance shall not become effective unless approved by the commission after such published notice and hearing, a certificate of which approval shall be filed in the office of the city and county clerk within five days after



such approval; **provided**, however, that in the event that such ordinance is not approved by the commission within the period of 30 days after its submission or is disapproved after submission such ordinance shall become effective without the approval of the commission where the board of supervisors shall pass such ordinance by the affirmative vote of at least five of the members of the board of supervisors following such disapproval by the commission."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 17, 1955.) S. B. 932, Act 140.

## ACT 141

An Act to Amend Chapter 15, Revised Laws of Hawaii 1945, as Amended, Relating to the Employees' Retirement System of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 15, Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By amending the definition of the term "employee" contained in section 701 to read as follows:

"'Employee'. Any employee or officer of the Territory or any county, including inspectors, principals, teachers and special teachers regularly employed in the public schools, apprentices and on-the-job trainees whether or not supported in whole or in part by any federal grants, members of the legislature and elective officers, probationary and provisional employees, per diem employees and others who are made eligible by reason of their employment to membership in the system by or pursuant to any other provision of law, but excluding:

(1) per diem employees who elect to withdraw or not to become members as provided in subsection 1 of section 703 of this chapter;

(2) members of the legislature who do not elect to be members as provided in subsection 1 of section 703 of this chapter;

(3) persons excluded by rules of the board pursuant to subsection 3 of section 703 of this chapter.

An individual is an employee during the period of a leave of absence if he is in service, as defined in this chapter, during the period of the leave of absence and the board shall determine who are employees within the meaning of this chapter."

(b) By amending the definition of the term "service" contained in section 701 to read as follows:

"'Service'. Service as an employee paid by the Territory or county, and also service during the period of a leave of absence or exchange if the individual is paid by the Territory or county during the period of the leave of absence or exchange or if the individual is not paid by the Territory or county during the period of the leave of absence but the individual is engaged in the performance of a gov-

ernmental function and not later than ninety days subsequent to the expiration of the leave of absence the individual makes the same contribution to the system as he would have made if he had not been on such leave of absence."

(c) By amending subsection 3 of **section 703** to read as follows:

"The board may deny the right to become members to any class of elected officials, other than legislators, or to any class of part time employees, or it may, in its discretion, make optional with persons in any such class their individual entrance into membership; **provided**, that no officer or employee entering service after January 1, 1928, who is entitled to become a member of any pension fund under the provisions of chapter 121, part I, shall be entitled to become a member of the system."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 18, 1955.) **S.B. 257, Act 141.**

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### ACT 142

An Act to Amend Act 190 of the Session Laws of Hawaii 1953 Relating to the Replacement of Policemen's Uniforms Damaged While in the Performance of Duty.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Act 190 (Series B-141) of the Session Laws of Hawaii 1953 is hereby amended by adding thereto another section to read as follows:

**"Sec. 6289.04. Replacement of reserve police officers' uniforms.** Wherever in this Act the terms 'policeman', 'policemen', 'police officer' or 'police officers' are used, the same shall include reserve police officers."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 18, 1955.) **S.B. 821, Act 142.**

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### ACT 143

An Act Relating to the Hours of Work of Government Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The working day of any employee of the Territory and the several counties or any agency or instrumentality thereof, who is required to report for duty at a corporation yard or any other central pick-up point shall commence at the time that he is required to report for duty at such corporation yard or central pick-up point and shall cease upon his return to said point at the end of the work period.

**SECTION 2.** This Act shall take effect on and after July 1, 1955.

(Approved May 18, 1955.) **H.B. 38, Act 143.**

**ACT 144**

**An Act Making Available an Appropriation from the General Revenues of the Territory for the Claim of John C. Rosebrook and Fran H. Rosebrook for the loss of the Vessel Carolina.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The sum of \$13,365.00 or so much thereof as may be necessary is hereby appropriated from the general revenues of the Territory not otherwise appropriated for the purpose of paying any legally adjudicated claim of John C. Rosebrook and Fran H. Rosebrook for and on account of any loss suffered by them or either of them in connection with the stranding and loss of the vessel Carolina, alleged to be due to the negligence, by act and/or omission to act, of the Territory or of its officers, employees or agents.

**SECTION 2.** Any claim presented by John C. Rosebrook and Fran H. Rosebrook shall not be deemed a legally adjudicated claim within the contemplation of section 1 unless it shall be found to be a valid legal claim by a court of competent jurisdiction in a final judgment against the Territory. Upon presentation to the auditor of the Territory of a certified copy of such final judgment, the sum hereby appropriated shall be paid to the extent of said judgment upon a warrant duly issued by said auditor of the Territory.

**SECTION 3.** For the purpose of this act and the adjudication of any such claim, the immunity of the Territory to suit is hereby waived and said John C. Rosebrook and Fran H. Rosebrook may proceed against the Territory as in the case of any other defendant, subject to the same procedures and defenses except for the defense of immunity from suit; **provided** that nothing contained herein shall be construed as an admission of liability on the part of the Territory.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved May 18, 1955.) **H. B. 1118, Act 144.**

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**ACT 145**

**An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Issue Bonds in the Sum of Three Million Dollars for the Purpose of Land Acquisition, Plans, Construction, Equipping and Furnishing a War Memorial Municipal Auditorium in the City and County of Honolulu.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The board of supervisors of the city and county of Honolulu is hereby empowered and authorized to issue bonds in the sum of three million dollars (\$3,000,000.00), **provided**, however, that the limitations and requirements in the Organic Act and chapter 117 of the Revised Laws of Hawaii 1945, as to the total bonded indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this Act.

SECTION 2. The moneys realized from such bond issue shall be expended for land acquisition, plans, construction, equipping and furnishing a war memorial municipal auditorium in the city and county of Honolulu.

SECTION 3. This Act shall take effect upon the enactment of legislation by the Congress of the United States of America ratifying this Act and authorizing such bond issue, notwithstanding the limitations of section 55 of the Organic Act of the Territory of Hawaii or any other law to the contrary.

(Approved May 19, 1955.) **H.B. 900, Act 145.**

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**ACT 146**

An Act to Amend Act 280 of the Session Laws of Hawaii 1953, Relating to Schools in the County of Maui.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2 (a) of Act 280 of the Session Laws of Hawaii 1953 is hereby amended as follows:

- (a) By amending item 7 (i) to read:  
 "7 (i) Kealahou-Keokea School . . . . \$325,000.00".
- (b) By deleting all of item 7 (m).
- (c) By redesignating item "7 (n)" to read "7 (m)".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1955.) **H.B. 123, Act 146.**

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**ACT 147**

An Act Amending Section 5404 of the Revised Laws of Hawaii 1945, as Amended, Relating to the County of Maui Extra and Special Fuel Taxes.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5404 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the date "June 30, 1955" appearing in part (a), subsection (5) and part (b), subsection (3) thereof to read "June 30, 1957".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 19, 1955.) **H.B. 302, Act 147.**

**ACT 148**

An Act Relating to the County of Kauai Extra and Special Fuel Taxes and the Disposition thereof, Amending Section 5404 of the Revised Laws of Hawaii 1945, as Amended, and Act 196 of the Session Laws of Hawaii 1947, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 5404 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the date "June 30, 1955" appearing in subsection (a) (6) and subsection (b) (4) thereof to read as "June 30, 1957".

**SECTION 2.** Section 7 of Act 196 of the Session Laws of Hawaii 1947, as amended, is hereby further amended by deleting the last sentence thereof, placing in lieu the following:

"Moneys in said fund shall be applied to the following projects: (1) the reconstruction and resurfacing of the roads in the Koloa district; (2) the reconstruction and resurfacing of the streets in Kapaa town; (3) the reconstruction and resurfacing of Kekaha road; (4) the construction of Hanapepe Salt Pond Park road; and (5) the construction and resurfacing of the Kokee road."

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 19, 1955.) **H.B. 353, Act 148.**

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**ACT 149**

An Act to Amend Section 12355 of the Revised Laws of Hawaii 1945, as Amended, Relating to Marriage License Agents and Fees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 12355, as amended, is hereby further amended by amending the last sentence of paragraph (a) thereof to read as follows:

"Any agent appointed under this paragraph and receiving an application for a marriage license, shall collect from the applicant for such license \$5.00, of which such agent, except in the district of Honolulu, shall retain \$3.00 for his benefit and compensation and shall remit \$2.00 to the treasurer of the Territory."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 20, 1955.) **H.B. 454, Act 149.**

## ACT 150

An Act to Prohibit the Practice of Law by Unlicensed Persons, to Define Offenses, and to Provide Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. License required.** It shall be unlawful for any person, firm, association or corporation to engage in or attempt to engage in or to offer to engage in the practice of law, or to do or attempt to do or offer to do any act constituting the practice of law, except and to the extent that such person, firm or association shall be licensed or authorized so to do by an appropriate court, agency or office or by a statute of the Territory or of the United States; **provided**, however, that nothing herein contained shall be deemed to authorize the licensing of a corporation to practice law. Nothing in this Act contained shall be construed to prohibit the preparation or use by any party to a transaction of any legal or business form or document used in such transaction.

**SECTION 2. Penalties.** Any person violating this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed two hundred and fifty dollars; but, upon any subsequent violation of this Act and conviction thereof, the person shall be punished by a fine not to exceed one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

**SECTION 3. Enforcement.** It shall be the duty of the prosecuting officers of the Territory to prosecute violations of this Act. Every violation hereof shall be prosecuted in the circuit court of the judicial circuit in which the violation is alleged to have been committed.

**SECTION 4. Judicial powers not affected.** Nothing in this Act shall be deemed to diminish, alter or affect the inherent or statutory power of the supreme court or of any court to institute and hear proceedings against any person for contempt or for violation of rules or orders of court, or to affect any rules of any court already in force, or to make applicable to any proceedings brought under this Act the provisions of chapter 244 of the Revised Laws of Hawaii 1945.

**SECTION 5. Severability.** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION 6.** This Act shall take effect upon its approval.

(Approved May 20, 1955.) **H.B. 811, Act 150.**

### ACT 151

An Act to Provide for the Removal from Civil Service of Certain Cafeteria Managers in the Department of Public Instruction and Providing for their Classification by the Department of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The provisions of chapters 2 and 3, Revised Laws of Hawaii 1945, to the contrary notwithstanding, any person who was, on March 15, 1955, serving as a cafeteria manager within the department of public instruction and who is a normal school graduate and who is otherwise qualified to be a teacher, shall from and after the effective date of this Act, receive compensation as provided by the teacher's pay schedule.

SECTION 2. No teacher shall be appointed or assigned as a cafeteria manager after the effective date of this Act, except in accordance with the provisions of chapters 2 and 3.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1955.) **H.B. 545, Act 151.**

### ACT 152

An Act to Amend Section 12731 of the Revised Laws of Hawaii 1945, Relating to the Recording of Instruments in the Bureau of Conveyances.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 12731 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 12731. Instrument recorded as of time of delivery. Office hours.** Every instrument entitled by law to be recorded, shall be recorded in the order and as of the time when the same is delivered to the registrar for that purpose, and shall be considered as recorded from the time of such delivery; **provided,** however, that it shall not be lawful for the registrar to accept or enter for record and record any instrument or other paper on any Sunday or legal holiday, or on any Saturday that the registrar's office remains closed pursuant to law, or on any other day except between the hours of 8:00 a.m. and 4:00 p.m."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 20, 1955.) **S.B. 477, Act 152.**

ACT 153

An Act Amending Section 4119 of the Revised Laws of Hawaii 1945, and Prescribing Maximum Fees that may be Charged by Commercial Employment Agencies.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4119 of the Revised Laws of Hawaii 1945 is hereby amended by amending sub-paragraph (d) so that the same shall read as follows:

“(d) Maximum fees to be charged, provided that no maximum fee shall exceed the following schedule of percentages of the first month’s gross wages, salaries, or commissions:

Wages, salaries or commissions	maximum percentage permitted
\$100.00 or less	10%
\$100.01 to \$150.00	15%
\$150.01 and over	20%

SECTION 2. This Act shall take effect upon its approval.

(Approved May 20, 1955.) S.B. 331, Act 153.

ACT 154

An Act Providing for Exemption from Assessment on Assessment Lot No. 1, Palolo Garden Tract Sewerage System, Improvement District No. 60, City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The owners of Assessment Lot No. 1 (roadway) of the assessment map and roll for the Palolo Garden Tract Sewerage System, Improvement District No. 60, City and County of Honolulu, are hereby exempted from the sewerage assessment involving the sum of \$257.22 on said lot.

SECTION 2. The mayor and board of supervisors of the city and county of Honolulu are hereby authorized to meet such deficiency out of the sewer bond fund or any other fund or funds available for such purpose.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 20, 1955.) S.B. 876, Act 154.



### ACT 155

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, Relating to Real Property Tax Exemption for the Tennent Art Foundation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5151 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding to subsection (a) thereof a new paragraph which shall be appropriately numbered and shall read as follows:

“The Tennent Art Foundation, an eleemosynary corporation, so long as its property is actually and solely used for the promotion of art, education and other eleemosynary purposes.”

SECTION 2. This exemption shall be granted retroactively from January 1, 1955, and for the year 1955 (a) the exemption shall apply to the property within the conditions necessary for exemption even though not owned by the user thereof, and (b) it shall not be necessary to comply with any provision of law which prescribes a condition precedent.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1955.) S.B. 348, Act 155.

### ACT 156

An Act Requiring the Testing of Paint for use on Highways and Public Buildings.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby created a paint testing laboratory for the purpose of testing paints purchased or to be purchased by government departments and agencies of the Territory, counties and the city and county of Honolulu.

SECTION 2. The laboratory shall be under the direction and supervision of the superintendent of the territorial department of public works and shall be situated at any location or locations deemed suitable by the superintendent. A comprehensive report on the results of such tests shall be made to the government department or agency requesting the testing of paints.

SECTION 3. All government departments and agencies purchasing paint by means of bid or contract shall be required to avail themselves of the facilities of the testing laboratory to assure that the specifications established for the paints so purchased have been met. All bids and contracts shall contain a provision that designated specification for paints, as determined by the testing laboratory, shall be a condition precedent to final payment to the bidder or contractor by the government department or agency. Before awarding any contract, the government department or agency may request samples of the paint to be used in performing the contract from all prospective bidders and submit them to the test laboratory for analysis and report.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 21, 1955.) H.B. 735, Act 156.

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### ACT 157

An Act Appropriating the Sum of Eighty-Three Thousand Six Hundred Ninety-Two Dollars and Twenty-Seven Cents (\$83,692.27) to Reimburse the City and County of Honolulu the Cost of Improvements in District No. 87, Dole Street Extension in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of eighty-three thousand six hundred ninety-two dollars and twenty-seven cents (\$83,692.27) is hereby appropriated out of the general revenues of the Territory of Hawaii not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it as an assessment on public lands for general improvements constructed in improvement district No. 87, Dole Street extension, in the district of Honolulu.

SECTION 2. That the said sum of eighty-three thousand six hundred ninety-two dollars and twenty-seven cents (\$83,692.27), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1955.) H.B. 893, Act 157.

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### ACT 158

An Act Appropriating the Sum of Eight Thousand Four Hundred Twenty-Eight Dollars and Twenty-Five Cents (\$8,428.25) to Reimburse the City and County of Honolulu for the Costs of Improvements in Improvement District No. 95, (Lots 122, 123, 124, 159, 162) Kalihi Valley Access Roads, Areas 1, 2, 3, 4, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of eight thousand four hundred twenty-eight dollars and twenty-five cents (\$8,428.25) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it as assessments on lands owned by the Ka Hale Hoano O Keakua, and the Hawaiian Baptist Mission under the provisions of section 6704, as amended by Act 263 (Series B-157) Session Laws of Hawaii 1953, for general improvements within Improvement District No. 95 (Lots 122, 123, 124, 159, 162) Kalihi Valley Access Roads, Areas 1, 2, 3, 4, in the district of Honolulu.

SECTION 2. That the said sum of eight thousand four hundred twenty-eight dollars and twenty-five cents (\$8,428.25), hereby appropriated,

shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1955.) **H.B. 896, Act 158.**

### ACT 159

An Act Appropriating the Sum of One Thousand Four Hundred Fifty-Nine Dollars and Sixty-Nine Cents (\$1,459.69) to Reimburse the City and County of Honolulu the Cost of Improvements in Improvement District No. 76, Palama Street Extension in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of one thousand four hundred fifty-nine dollars and sixty-nine cents (\$1,459.69) is hereby appropriated out of the general revenues of the Territory of Hawaii not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it as an assessment on public lands for general improvements constructed in improvement district No. 76, Palama street extension in the district of Honolulu.

SECTION 2. That the said sum of one thousand four hundred fifty-nine dollars and sixty-nine cents (\$1,459.69), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1955.) **H.B. 897, Act 159.**

### ACT 160

An Act Appropriating the Sum of One Thousand Nine Hundred Forty-Six Dollars and Fifty Cents (\$1,946.50) to Reimburse the City and County of Honolulu the Cost of Improvements in Improvement District No. 84, Kapiolani Boulevard Extension in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of one thousand nine hundred forty-six dollars and fifty cents (\$1,946.50) is hereby appropriated out of the general revenues of the Territory of Hawaii not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it as an assessment on public lands for general improvements constructed in improvement district No. 84, Kapiolani Boulevard extension in the district of Honolulu.

SECTION 2. That the said sum of one thousand nine hundred forty-six dollars and fifty cents (\$1,946.50) hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of

the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1955.) **H.B. 898, Act 160.**

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### ACT 161

An Act Appropriating the Sum of Twenty-Two Thousand Two Hundred Eighty-One Dollars and Ninety-Eight Cents (\$22,281.98) to reimburse the City and County of Honolulu for the Costs of Improvements in Improvement District No. 82 (Lots 70 to 72 and 77, and Lot 117, East Manoa Road) in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of twenty-two thousand two hundred eighty-one dollars and ninety-eight cents (\$22,281.98) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it as assessments on lands owned by the Lin Yee Chung Society under the provisions of section 6704 of the Revised Laws of Hawaii 1945, as amended by Act 172 (Series A-111), Session Laws of Hawaii 1951, for general improvements constructed within Improvement District No. 82, (Lots 70 to 72, and 77, East Manoa Road) in the district of Honolulu and land owned by the trustees of the Kawaiahoa Church under the provisions of section 6704 of the Revised Laws of Hawaii 1945, as amended by Act 263 (Series B-157) Session Laws of Hawaii 1953, for general improvements constructed within Improvement District No. 82 (Lot No. 117, East Manoa Road) in the district of Honolulu.

SECTION 2. That the said sum of twenty-two thousand two hundred eighty-one dollars and ninety-eight cents (\$22,281.98) hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 21, 1955.) **H.B. 899, Act 161.**

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### ACT 162

An Act Amending Section 7345 of the Revised Laws of Hawaii 1945, Relating to Lost or Mutilated Certificates of Registration of Motor Vehicles.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7345 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 7345. **Certificates lost or mutilated.** In the event that any certificate of registration or certificate of ownership shall be lost,

mutilated or shall have become illegible, the person to whom the same shall have been issued shall immediately make application for and may obtain a duplicate thereof upon furnishing satisfactory information to the treasurer and upon payment of a fee of one dollar."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 21, 1955.) H.B. 1278, Act 162.

### ACT 163

An Act Amending Section 7338 of the Revised Laws of Hawaii 1945 Relating to Assignment of Distinguishing Number to any Motor Vehicle.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7338 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Section 7338. New Motor vehicle number. The treasurer is authorized to assign a distinguishing serial number to any motor vehicle where the serial number thereon shall be destroyed or obliterated. Any person wilfully destroying or obliterating any serial number on a motor vehicle shall be guilty of a misdemeanor and shall be punished as provided in Section 7348.

SECTION 2. This Act shall take effect on January 1, 1956.

(Approved May 21, 1955.) H.B. 1321, Act 163.

### ACT 164

An Act Amending Chapter 317 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Use of Water from the Molokai Irrigation and Water Utilization Project.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first sentence of section 12952, Revised Laws of Hawaii 1945, as amended, is hereby amended to read as follows:

"The authority shall have the power to make preliminary surveys and engineering studies, and to construct an irrigation and water utilization project, designed to serve and supply the owners and occupants of lands on the island of Molokai, and to manage, control, operate and maintain such project in accordance with the provisions of this chapter."

SECTION 2. The last paragraph of section 12953, Revised Laws of Hawaii 1945, as amended, is hereby amended to read as follows:

"It is the intent of this chapter that the rates fixed and charged shall be as low as is reasonably necessary to meet the above costs and the requirements of section 12956 and remain within the ability of the owners and occupants of lands served by and the consumers of water from said project to pay."

SECTION 3. Section 12954, Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Section 12954. Preference. To the extent that the same may be necessary from time to time for the satisfaction of their water needs, domestic and agricultural, the Hawaiian Homes Commission and lessees of the Hawaiian Homes Commission shall at all times, upon actual need therefor being shown to the authority, have a prior right to two-thirds of the water developed for such irrigation and water utilization project by the tunnel development extending to Waikolu valley and ground water developed west of Waikolu valley, which is planned by the authority as the first stage of such project."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 23, 1955.) H.B. 1106, Act 164.

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### ACT 165

An Act to Amend Section 7336 of the Revised Laws of Hawaii 1945, as Amended, Relating to Registration of Motor Vehicles.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7336 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting the words "serial or" before the word "motor" appearing in the second sentence of paragraph two.

SECTION 2. This Act shall take effect January 1, 1956.

(Approved May 23, 1955.) H.B. 1179, Act 165.

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### ACT 166

An Act to Repeal Subsection B of Section 8399 of the Revised Laws of Hawaii 1945 as Added by Act 256, Session Laws of Hawaii 1953.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Subsection B of section 8399 of the Revised Laws of Hawaii 1945 as added by Act 256, Session Laws of Hawaii 1953, is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 24, 1955.) H.B. 1208, Act 166.

## ACT 167

An Act Amending Sections 1307, 1308 and 1309 of the Revised Laws of Hawaii 1945, and Repealing Act 242, Session Laws of Hawaii 1953, Relating to Eggs and to the Sale Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1307 of chapter 20 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 1307. Grading standards and regulations.** The board shall have power to make rules and regulations with respect to sale and transportation for sale of eggs for human consumption; grades or standards of quality and condition; size and weight classes; inspection and classification; assessment and collection of fees for requested certification; labelling of containers of imported and locally produced eggs; character of all newspaper advertisements, posters or signs as to size, grade and geographic origin of eggs offered or exposed for sale; seller's invoice for sale of eggs; records of imported shell eggs of foreign origin; and enforcement of the provisions of this subtitle and of the rules and regulations promulgated under authority of this subtitle."

SECTION 2. Section 1308 of chapter 20 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto at the end of the first paragraph thereof a new paragraph to read as follows:

"The word 'island' shall be used to designate the geographic origin of eggs produced in this Territory."

SECTION 3. Section 1309 of chapter 20 of the Revised Laws of Hawaii is hereby amended by deleting from the first sentence thereof the words: "other than those of his own production".

SECTION 4. Act 242, Session Laws of Hawaii 1953, is hereby repealed.

SECTION 5. Chapter 20 of the Revised Laws of Hawaii 1945, as amended by Act 90 (Series A-40) Session Laws of Hawaii 1953, is hereby further amended by adding immediately following section 1308.01, a new section to be numbered and to read as follows:

**"Sec. 1308.02. Notice for the sale of imported chicken shell eggs of foreign origin.** It shall be unlawful for any person to sell, offer or expose for sale any imported chicken shell eggs of foreign origin, unless a placard bearing the words 'WE SELL FOREIGN EGGS' printed in legible boldface letters of a size not less than 3 inches in height, is displayed in a conspicuous place where the customers entering can see it."

SECTION 6. **Effective date.** This Act shall take effect upon its approval.

(Approved May 24, 1955.) S.B. 904, Act 167.

**ACT 168**

An Act to Amend Section 4675 of the Revised Laws of Hawaii 1945, Relating to Farm Loans.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Item 3 of Section 4675 of the Revised Laws of Hawaii 1945, is hereby amended by adding a new paragraph after the paragraph marked "Class C" relating to purposes for loans, to read as follows:

"Class D. To provide relief and rehabilitation to practical farmers who have sustained financial losses occasioned by extraordinary rain-storms, wind storms, droughts, tidal waves, earthquakes, volcanic eruptions and other natural catastrophes without limitation as to purposes therefor. The term of loans in Class D shall not exceed five years."

SECTION 2. Item 4 of Section 4675 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the period at the end of the first sentence and adding immediately thereafter the words, to read as follows:

"except for purposes of Class D loans, where the Board may, with the approval of the governor, modify or waive any or all of the security requirements or any limitations with respect thereto."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 24, 1955.) **H.B. 658, Act 168.**

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**ACT 169**

An Act to Amend Section 1702 of the Revised Laws of Hawaii 1945 Relating to Appointment of Commissioners of the Department of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1702 of the Revised Laws of Hawaii 1945 is hereby amended by adding at the end thereof the following sentence:

"Not more than five of the commissioners shall belong to the same political party."

SECTION 2. Any appointment made after the effective date of this Act shall be made so as to conform to the provisions of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1955.) **S.B. 354, Act 169.**



**ACT 170**

An Act to Amend Chapter 39 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Practice of Dentistry.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2151 of the Revised Laws of Hawaii 1945 is hereby amended by adding the words and punctuation "the United States Air Force," after the words and punctuation "The United States Navy," appearing in subparagraph "(b)" in the second paragraph thereof.

SECTION 2. Section 2156 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new sentence to the end of said section to read as follows:

"The board shall adopt such rules and regulations as it may deem proper and necessary for the performance of its work."

SECTION 3. Section 2159 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

- (a) By deleting subsection (2) thereof.
- (b) By renumbering subsections (3) and (4) thereof, to read subsections (2) and (3), respectively.
- (c) By adding a new sentence to the end of the fourth paragraph to read as follows:

"The board may accept an applicant who presents a certificate or other bona-fide evidence as having passed the theory examination of the national board of dental examiners in lieu of the theory portion of the territorial dental board examination."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 25, 1955.) S.B. 682, Act 170.

**ACT 171**

An Act to Provide for the Regulation of Traffic Within Projects of the Hawaii Housing Authority by Amending Chapter 61 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any law to the contrary notwithstanding, the board of supervisors of the city and county of Honolulu is hereby authorized to regulate traffic within the various projects of the Hawaii Housing Authority in the city and county of Honolulu by ordinance in the manner as provided for in paragraph 12 of section 6521 of the Revised Laws of Hawaii 1945 as amended.

SECTION 2. Any law to the contrary notwithstanding the board of supervisors of the counties of Hawaii, Maui and Kauai are hereby authorized to regulate traffic within the various projects of the Hawaii Housing Authority within their respective counties, by ordinance as provided by law.

**SECTION 3.** This Act shall take effect upon its approval, **provided**, however, that no such ordinance or laws enacted by the board of supervisors of any county regulating traffic within the projects of the Hawaii Housing Authority within such county, shall be valid or effective, unless prior thereto, the Hawaii Housing Authority has entered into a written contract with such county absolving such county from any and all responsibility or liability for the construction, maintenance and repair of any streets, lanes, alleys or highways or street markers, traffic signs or signal devices within such projects of the Hawaii Housing Authority.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved May 25, 1955.) **S.B. 805, Act 171.**

### ACT 172

An Act to Amend Section 7669 of the Revised Laws of Hawaii 1945, as Amended, Relating to Notaries Public.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 7669 of the Revised Laws of Hawaii 1945, as amended by Act 30 (Ser. C-176), Session Laws of Hawaii 1953, is further amended by changing the period appearing at the end thereof to a comma and adding thereto the following words and phrases:

"and also for expenses, including personal services, incurred in connection with the compilation and printing of opinions of the attorneys general, their assistants and deputies."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 25, 1955.) **H.B. 568, Act 172.**

### ACT 173

An Act Appropriating the Sum of Eight Thousand Two Hundred Twenty-One Dollars and Ninety-Four Cents (\$8,221.94) to Reimburse the City and County of Honolulu for the Cost of Sewer Improvements in Improvement District No. 108, King-Waialae Sewer Improvement District, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The sum of eight thousand two hundred twenty-one dollars and ninety-four cents (\$8,221.94) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated to reimburse the city and county of Honolulu for payments made by it under the provisions of section 6704 of the Revised Laws of Hawaii 1945, as amended, as assessments on public lands for sewer improvements constructed in improvement district number 108, King-Waialae sewer improvement district, in the district of Honolulu.

**SECTION 2.** The said sum of eight thousand two hundred twenty-one

dollars and ninety-four cents (\$8,221.94), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1955.) H.B. 1180, Act 173.

## ACT 174

An Act Appropriating the Sum of Four Thousand Six Hundred Thirty-Nine Dollars and Forty-Four Cents (\$4,639.44) to Reimburse the City and County of Honolulu for the Cost of Sewer Improvements in Improvement District No. 103, Date-Kapahulu Sewer Improvement District, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of four thousand six hundred thirty-nine dollars and forty-four cents (\$4,639.44) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of section 6704 of the Revised Laws of Hawaii 1945 as amended, as assessments on public lands for sewer improvements constructed in improvement district number 103, Date-Kapahulu sewer improvement district, in the district of Honolulu.

SECTION 2. The said sum of four thousand six hundred thirty-nine dollars and forty-four cents (\$4,639.44), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1955.) H.B. 1182, Act 174.

## ACT 175

An Act to Amend Section 7340.01 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Registration of Vehicles Located Outside of the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7340.01 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting the words "serial or" before the words "engine and factory numbers" wherever they appear therein.

SECTION 2. This Act shall take effect January 1, 1956.

(Approved May 25, 1955.) H.B. 1186, Act 175.

**ACT 176**

An Act Amending Item 38 of Act 321 (Series E-268), Session Laws of Hawaii 1951, Relating to the Transfer of Unexpended Funds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any unexpended funds appropriated to the Kona-Hilo Road by Item 38 of Act 321 (Series E-268), Session Laws of Hawaii 1951, are hereby reappropriated to the department of institutions for the improvement and maintenance of the approach road to the Kulani project from Hilo.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1955.) **H.B. 558, Act 176.**

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**ACT 177**

An Act Relating to Taxation, Concerning Real Property Belonging to the United States Leased Pursuant to Title VIII of the National Housing Act.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Real property belonging to the United States leased pursuant to Title VIII of the National Housing Act, as amended or supplemented from time to time:

(a) Shall not be taxed under chapter 94 of the Revised Laws of Hawaii 1945, as amended, upon the lessee's interest or any other interest therein, except as provided in paragraph (b).

(b) Shall be taxed under chapter 94 of the Revised Laws of Hawaii 1945, as amended, to the extent of and measured by the value of the lessee's interest in any portion of the real property (including land and appurtenances thereof and the buildings and other improvements erected on or affixed to the same) used for, or in connection with, or consisting in, shops, restaurants, cleaning establishments, taxi stands, insurance offices, or other business or commercial facilities. The tax shall be assessed to and collected from the lessee. The assessment of such property shall not impair, and shall be so made as to not impair, any right, title, lien or interest of the United States.

SECTION 2. Nothing in this Act shall be deemed to be an expression by the legislature as to the construction of chapter 94 of the Revised Laws of Hawaii 1945, as it read prior to the enactment of this Act.

SECTION 3. This Act shall take effect January 1, 1956.

(Approved May 25, 1955.) **H.B. 1328, Act 177.**

ACT 178

An Act Appropriating the Sum of Nine Thousand Seven Hundred Fifty-Four Dollars and Forty-Seven Cents (\$9,754.47) to Reimburse the City and County of Honolulu for the Costs of Improvements in Improvement District No. 90 (Lots 1, 3, 4) Emma Street Widening, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of Nine Thousand Seven Hundred Fifty-Four Dollars and Forty-Seven Cents (\$9,754.47) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it as assessments on lands owned by the Protestant Episcopal Church under the provisions of Section 6704 of the Revised Laws of Hawaii 1945, as amended by Act 263, (Series B-157) Session Laws of Hawaii 1953, for general improvements within Improvement District No. 90 (Lots 1, 3, 4) Emma Street Widening, in the District of Honolulu.

SECTION 2. That the said sum of Nine Thousand Seven Hundred Fifty-Four Dollars and Forty-Seven Cents (\$9,754.47) hereby appropriated, shall be paid to the Treasurer of the City and County of Honolulu by the Treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 25, 1955.) H.B. 890, Act 178.

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ACT 179

An Act Relating to Leaves of Absence of Public Officers and Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 12 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section, appropriately numbered, reading as follows:

"Sec. [552.01.] **Funeral leave.** Two days' leave with pay, on such days as may be designated by the officer or employee, shall be granted any officer or employee in the service of the Territory or any county upon the death of any member of the officer's or employee's immediate family. The term 'immediate family' shall mean the husband or wife, children, father, mother, brothers and sisters of the officer or employee."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 25, 1955.) S.B. 156, Act 179.

## ACT 180

An Act to Amend Chapter 49, Revised Laws of Hawaii 1945, as Amended, Relating to Narcotic Drugs.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 49, being sections 2601 to 2622 inclusive, Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting the words "habit-forming" wherever the same appear therein and substituting therefor the word "narcotic", except as follows:

(a) In section 2603, strike out the words "any habit-forming drug, or" in line 3 thereof.

(b) In section 2603.01, strike out the words "any habit-forming drug, or" in line 3 and lines 7 and 8.

(c) In section 2603.02, strike out the words "habit-forming drug or any" and substitute therefor the word "narcotic" in line 4 thereof.

(d) In section 2606, strike out the words "or habit-forming" appearing in the first and second sentence thereof; strike out the "s" from the word "narcotics" appearing in line (9) thereof; strike out the words "and habit-forming" appearing in line 10 thereof; and strike out the "s" from the word "narcotics" and words "or habit-forming" appearing in the last sentence thereof.

(c) In section 2614, strike out the word "habit-forming" and the "s" from the word "drugs" in line 9 thereof.

SECTION 2. Section 2601, Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By deleting the definitions of "coca leaves", "habit-forming drugs", "opium", and all definitions including and following "isonipecaine".

(b) By inserting a definition of "narcotic drugs" following the definition of "manufacturer" to read as follows:

"Narcotic drugs" mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium, isonipecaine, coca leaves, and opiate;
- (2) Any compound, manufacture, salt, derivative, or preparation of opium, isonipecaine, coca leaves, or opiate;
- (3) Any substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in clauses (1) and (2), including apomorphine or any of its salts.

SECTION 3. Section 2603, Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting the words "or marihuana in bulk containing 125 or more grains," immediately following the "comma" after the words "section 2612" first appearing therein in the second paragraph thereof.

SECTION 4. Chapter 49, of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto two new sections numbered 2606.01 and 2606.02 to read as follows:

**"Section 2606.01 Telephone orders.** A pharmacist (an apothecary) may fill an oral prescription communicated to him by a duly registered practitioner for such narcotic drugs or compound of a narcotic drug which the federal commissioner of narcotics has found and by regulations designated to possess relatively little or no addiction liability. In issuing an oral prescription, the prescriber shall furnish the pharmacist with the same information as is required in the case of a written prescription except for the written signature of the prescriber. The oral prescription, including the information required to be furnished by the prescriber, shall promptly be reduced to writing by the pharmacist, who shall file and preserve the writing in his narcotic prescription file as prescribed in section 2606. The practitioner is responsible in case the oral prescription does not conform in all essential respects to the law. A corresponding liability rests upon the druggist who fills an oral prescription not communicated in the form prescribed by law.

**Section 2606.02. Definitions of oral prescriptions.** The definitions and standards for which oral prescriptions may be accepted under conditions specified in section 2606.01 shall be identical with those prescribed under conditions specified in Public Law 729 and treasury decision 49."

SECTION 5. Section 2612, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

**"Sec. 2612. Cannabis sativa, marihuana.** No person shall plant, cultivate, produce, manufacture, possess, have under his control, prescribe, administer, or compound cannabis sativa, marihuana or any preparation or derivative thereof, or offer the same for sale, administering, dispensing or compounding; **provided**, that nothing in this section shall apply to the planting, cultivation, production, manufacture, possession, control and sale for medicinal and scientific purposes, by producers, manufacturers, wholesalers and apothecaries, or to the administering, dispensing, prescribing, compounding and use for medicinal and scientific purposes, by physicians, dentists, veterinarians and practitioners; and **provided**, further, that this section shall not apply to preparations produced, manufactured, possessed, controlled, sold, prescribed, administered, dispensed, compounded, or used in good faith for medicinal and scientific purposes, which do not contain more than one-half grain of the extract of cannabis sativa, marihuana or of any other derivative or preparation of cannabis sativa or marihuana, of any greater pharmacologic potency, in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments or other preparations containing cannabis sativa, marihuana or derivatives thereof, which are prepared for external use and susceptible of such use alone."

SECTION 6. This Act shall take effect upon its approval.

(Approved May 25, 1955.) H.B. 795, Act 180.

**ACT 181**

An Act Amending Section 5404 of the Revised Laws of Hawaii 1945, as Amended, Relating to the County of Hawaii Extra and Special Fuel Taxes.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 5404 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By amending the words, figures and punctuation "July 1, 1953, to June 30, 1955," appearing in subsection (3) of paragraph (a) thereof to read "July 1, 1955, to June 30, 1957,"; and

(b) By amending the words, figures and punctuation "July 1, 1953, to June 30, 1955," appearing in subsection (1) of paragraph (b) thereof to read "July 1, 1955, to June 30, 1957,".

**SECTION 2.** This Act shall take effect on July 1, 1955.

(Approved May 26, 1955.) **H.B. 1067, Act 181.**

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**ACT 182**

An Act Abolishing the Psychological and Psychopathic Clinic of the University of Hawaii, Transferring Its Duties, Powers and Functions and Equipment and Some of Its Personnel to the Board of Health, Repealing Sections 1959, 1960, and 1961 of the Revised Laws of Hawaii 1945, and Amending Section 2552 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Sections 1959, 1960, and 1961 of the Revised Laws of Hawaii 1945, are hereby repealed, and the psychological and psychopathic clinic of the University of Hawaii is hereby abolished.

**SECTION 2.** Section 2552 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new subparagraph to be numbered 1.02 and to read as follows:

"(1.02) To investigate the nature, causes, treatment and consequences of mental disease and defect within the Territory, and to receive for observation or examination any person who shall be referred to it at the request of the judge of the juvenile court, or of any other territorial or federal court within the Territory, or at the request of any public institution or organization within the Territory. Subject to regulations by the board, the bureau may also make investigations and examinations at the request of any private charitable or benevolent institution or organization, or of any parent or properly constituted guardian within the Territory."

**SECTION 3.** The powers, duties and functions of the psychological and psychopathic clinic of the University of Hawaii are hereby transferred to the bureau of mental hygiene of the board of health. On the effective date of this Act, all records, files, equipment, and other facilities and supplies presently used for and by the psychological and psychopathic clinic



of the University of Hawaii shall be transferred to the bureau of mental hygiene of the board of health. On the effective date of this Act, all personnel of the psychological and psychopathic clinic of the University of Hawaii, except the director and one other psychologist on the staff, shall be transferred to the board of health. The director and one other psychologist shall remain on the staff of the University of Hawaii and shall be assigned to appropriate positions on the university staff. The employees hereby transferred from the psychological and psychopathic clinic of the University of Hawaii to the bureau of mental hygiene of the board of health shall be transferred without any loss of employment rights and privileges and without any reduction in vacation or sick leave credits. Employment security and status, and salary grades and increment dates of such employees shall be made to conform as equitably as possible with those of the regular employees of the bureau of mental hygiene, and in no event shall such employment rights or salaries be reduced or adversely affected by the transfer. The personnel and equipment so transferred may continue to be housed in the physical facilities on the University of Hawaii campus occupied immediately prior to the effective date of this Act.

SECTION 4. If the general appropriation Act for the 1955-1957 biennium contains an appropriation for the psychological and psychopathic clinic under the University of Hawaii, then on the effective date of this Act, such appropriation minus that portion which is to remain with the university for the payment of the salaries of the director and one other psychologist to be retained by the university, shall be transferred to the board of health and shall be expended for the purposes of the bureau of mental hygiene.

SECTION 5. All laws or portions of laws inconsistent with the provisions of this Act are hereby amended to conform to the provisions of this Act insofar as such inconsistency exists.

SECTION 6. This Act shall take effect on July 1, 1955.

(Approved May 26, 1955.) H.B. 1174, Act 182

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### ACT 183

An Act Amending Section 5713 of the Revised Laws of Hawaii 1945 as Amended, Section 6007, Revised Laws of Hawaii 1945, as Amended; and Act 196 of the Session Laws of Hawaii 1947 Relating to Certain Taxes.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5713 of the Revised Laws of Hawaii 1945 as amended by Act 83 of the Session Laws of Hawaii 1945 is hereby further amended by deleting the words "road fund" appearing in the first and third lines thereof and substituting therefor the words, "highway fund".

SECTION 2. Section 6007 of the Revised Laws of Hawaii 1945 as amended by Act 83 of the Session Laws of Hawaii 1945 is hereby further amended by deleting the words "road fund" appearing in the first and fourth lines thereof and substituting therefor the words "highway fund".

SECTION 3. Section 5 of Act 196 of the Session Laws of Hawaii 1947,

as amended by Act 302 of the Session Laws of Hawaii 1951, is hereby further amended by deleting the words "fuel tax fund of the city and county of Honolulu," appearing in the fifth and sixth lines thereof and by substituting therefor the words, "highway fund".

SECTION 4. This Act shall take effect upon its approval.

(Approved May 26, 1955.) H.B. 1310, Act 183.

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### ACT 184

An Act Amending Sections 8175, 8222.01, 8225 and 8228 of the Revised Laws of Hawaii 1945, as Amended, Relating to Savings and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8175 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting, following the word "lease" in the first sentence of the second paragraph thereof, the following words: "the unexpired term of which at the time a loan is made thereon is not less than twenty years."

SECTION 2. Section 8222.01 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended so that the first sentence thereof shall read as follows:

"Loans may be made on leased property and the improvements thereon, **provided** such property conforms to the definition of a 'Home' contained in Section 8175, and **provided** the unexpired term of the lease at the time the loan is made thereon is at least two years beyond the maturity date of the loan."

SECTION 3. Section 8225 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting from the first paragraph thereof the words, "subject to the total amount that may be loaned to any one individual as limited in section 8228," and inserting in place thereof the following:

"**provided**, however, that the aggregate amount of the loans made pursuant to this section to any one individual shall never exceed five per cent of the capital of the association;"

SECTION 4. Section 8228 of the Revised Laws of Hawaii 1945, as amended, is hereby amended so that the first sentence of the first paragraph thereof shall read as follows:

"The total amount that may be loaned by an association on any 'Home' property, in ordinary loans, shall not exceed thirty five thousand dollars."

SECTION 5. This Act shall take effect ten days after promulgation as required by section 2 of the Revised Laws of Hawaii 1945.

(Approved May 26, 1955.) S.B. 286, Act 184.

ACT 185

An Act Amending Section 8221 of the Revised Laws of Hawaii 1945, Relating to the Brokerage Business and Purchase and Sale of Loans by Savings and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8221 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 8221. Brokerage business and purchase and sale of loans.**

Any association may purchase loans of any type that it may make; **provided**, however, that no loan may be purchased from an affiliated institution, or from an institution in liquidation, without the prior approval of the bank examiner, or from an officer, director or employee of such association or from any person or firm regularly serving such association in the capacity of attorney at law.

An 'affiliated institution' means:

1. An institution in which the purchasing association has a substantial investment, or
2. An institution which has a substantial investment in the purchasing association, or
3. An institution of which the majority of the board of directors are the same persons who constitute a majority of the board of directors of the purchasing association, or
4. An institution in which the operating manager or members of the executive, loan, advisory or any other administrative committees of the association have a substantial financial interest.

An 'institution in liquidation' means:

1. An institution which has been taken over for liquidation pursuant to law, or
2. An institution which, in conformity with law, has determined to dissolve.

Loans, dealing in. An association may originate and sell any loan at any time, of the types that it may make, if the total dollar amount of loans sold, including such sale, within the calendar year beginning January 1 immediately preceding the date of such sale, does not exceed a sum equivalent to twenty per cent (20%) of the dollar amount of all loans held by such association at the beginning of such calendar year, **provided** that a charge may be made and collected by the association sufficient to reimburse it for the expense incurred in originating the business; **provided** further, that the limitation upon the sale of loans may be increased upon application to and approval by the bank examiner. All loans sold shall be sold without recourse, and if under a contract to service the same, then on a basis to provide sufficient compensation to the association to reimburse it for expenses incurred under its service contract.

No association which holds a mortgage or other instrument securing a debt which is a first lien upon real estate and which simultaneously holds one or more additional mortgages or other instruments securing a debt and constituting liens in-

ferior to the first lien upon the same real estate, shall sell or otherwise dispose of any such mortgage or other instrument, unless it shall simultaneously sell or otherwise dispose of all mortgages or other instruments constituting inferior liens upon the same real estate."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 26, 1955.) S.B. 287, Act 185.

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### ACT 186

An Act to Amend Chapter 153 of the Revised Laws of Hawaii 1945, Relating to Savings and Loan Associations by Adding a New Section thereto Relating to Unsecured Loans by Savings and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 153 of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto a new section, to be numbered section 8225.01, reading as follows:

"Sec. 8225.01. **Unsecured surplus loans.** An association may, upon adoption of such a loan plan by its board of directors, also make or purchase loans for property alteration, repair, or improvement of homes within the Territory of Hawaii from its surplus funds described in section 8225, without the security of a lien upon such property, provided that:

- (1) The net proceeds of any such loan do not exceed \$2,500;
- (2) Each such loan is evidenced by one or more negotiable notes, bonds, or other written evidence of debt;
- (3) Each such loan is repayable in regular monthly installments within a period of three years."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 26, 1955.) S.B. 288, Act 186.

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### ACT 187

An Act Amending Section 8226 of the Revised Laws of Hawaii 1945, Relating to Appraisals for Savings and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8226 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 8226. **Appraisals.** All real estate upon the security of which any loan is to be made by an association shall be appraised prior to making such loan. Such appraisals shall be made by a qualified person connected with the association, designated and approved by the board of directors; or by a competent independent appraiser who has no connection with the association either as director, employee

or officer, and shall be made in such form as shall be designated or approved by the bank examiner. The bank examiner shall have the right to require that an appraisal by an independent appraiser be obtained at the expense of the association on any real estate owned by or under mortgage to the association whenever and wherever it shall appear necessary to him. All appraisals on loans in force shall be kept in the files of the association."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 26, 1955.) S.B. 289, Act 187.

### ACT 188

An Act Amending Section 8182 of the Revised Laws of Hawaii 1945, Relating to filing Fees for Savings and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8182 of the Revised Laws of Hawaii 1945 is hereby amended by deleting the second paragraph thereof and inserting in place of the same the following:

"Original authorized capitalization filing fees shall be as the same rate levied against other corporations. However, on any increase in the authorized capitalization, the filing fees shall be based, not upon the authorized capital increase, but upon the capital paid in as defined in section 8172."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 26, 1955.) S.B. 290, Act 188.

### ACT 189

An Act Amending Sections 6405.01, 6405.02 and 6405.03 of the Revised Laws of Hawaii 1945 as Enacted by Act 86 (Series B-185) Session Laws of Hawaii 1949, Relating to the Board of Water Supply of the County of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6405.01 of the Revised Laws of Hawaii 1945 as enacted by Act 86 (Series B-185) Session Laws of Hawaii 1949, is hereby amended by:

(a) substituting for the word "seven" in the third line thereof the word "nine"; and

(b) substituting for the word and number "six (6)" in the third line thereof the word and number "eight (8)".

SECTION 2. Section 6405.02 of the Revised Laws of Hawaii 1945 as enacted by Act 86 (Series B-185) Session Laws of Hawaii 1949, is hereby amended by:

(a) substituting for the word "six" in the first line thereof by the word "eight"; and

(b) amending the second paragraph thereof to read as follows:

"Membership of the board shall include four members who are residents of the district of North and/or South Hilo; one of said four members shall be the person who for the time being shall be the legal incumbent of the office of the chief engineer of the department of public works of the county of Hawaii. In addition, one member shall be a resident of the district of North Kona or South Kona, one member shall be a resident of the district of North Kohala or South Kohala, one member shall be a resident of the district of Hamakua, one member shall be a resident of the district of Puna, and one member shall be a resident of the district of Kau."

**SECTION 3.** Section 6405.03 of the Revised Laws of Hawaii 1945 as enacted by Act 86 (Series B-185) Session Laws of Hawaii 1949 is hereby amended by substituting for the word "three" in the eleventh line thereof the word "four".

**SECTION 4.** This Act shall take effect upon its approval.

(Approved May 26, 1955.) **H.B. 1068, Act 189.**

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## ACT 190

An Act to Amend Section 5151 of the Revised Laws of Hawaii 1945, as Amended, Relating to Real Property Tax Exemption.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 5151 of the Revised Laws of Hawaii 1945, as amended, is hereby amended by amending item 60 thereof, to read as follows:

"60. The property of the Kokokahi community trust, an eleemosynary corporation. All real property owned and used by Kokokahi community trust, situate on the island of Oahu, so long as such property shall be used for eleemosynary purposes."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 26, 1955.) **H.B. 994, Act 190.**

**ACT 191**

**An Act Relating to Elections Concerning the Boundaries and Constitution, Senators and Representatives in Congress, and Offices in, under, or by Authority of the Proposed State of Hawaii; and Making an Appropriation Therefor.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**PART I**

**AMENDMENTS OF ELECTION LAWS**

**SECTION 1.** Effective as stated in Part III of this Act (section 8), chapters 4, 5, 6, 7, 122, 127, and sections 604, 1541.02 and 10841, of the Revised Laws of Hawaii 1945, as heretofore amended, shall stand amended, altered, or repealed, as the case may be, as follows:

- (a) By substituting the following:
  - (1) For the words "secretary of the Territory", or "secretary of the Territory of Hawaii", wherever the same appear, the words "secretary of Hawaii".
  - (2) For the words "territorial" or "Territory", wherever the same appear (except in the first sentence of the second paragraph of section 270), the word "State".
  - (3) For the words "Territory of Hawaii", wherever the same appear, the words "State of Hawaii".
- (b) By repealing section 153.
- (c) By amending section 162, by deleting from the last line of the paragraph numbered "2." the words "the legislature" and inserting in lieu thereof the words "office".
- (d) By amending section 163 as follows:
  - (1) By placing a comma after the word "voting" in the sixth line thereof, by deleting the remainder of the sentence, and by inserting in lieu thereof the following:  
"and from being elected to, holding or occupying any office, elective or appointive."
  - (2) By deleting from the next to the last line thereof the words "secretary of the Territory" and inserting in lieu thereof "secretary of Hawaii and to the respective county clerks".
- (e) By adding to chapter 6, three new sections to be designated sections 170.01 to 170.03, inclusive, and to read as follows:

**"Sec. 170.01. Members of Congress, applicability of election laws.** The method of determining and certifying the names of candidates to be placed on the ballot for, the qualification of voters at, and all the conduct of, the election of a senator or representative in Congress shall be in conformity to the laws applicable to the election of members of the State legislature, whether or not the word 'Congress' is specifically mentioned in such laws, except as expressly otherwise provided.

**"Sec. 170.02. Method of voting for State legislators.** Each voter for senator or representative in the State legislature may cast a vote for as many senators or representatives as are to be elected from the district in which he is entitled to vote. The required number of

candidates receiving the highest number of votes in the senatorial or representative districts shall be the senators or representatives for such districts.

“Sec. 170.03. Exemptions of electors on election day. Every elector shall be privileged from arrest on election day during his attendance at election and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony.”

(f) By amending section 178, as amended by Act 151 of the Session Laws of 1947, to read as follows:

“Sec. 178. Application by elector. Any person qualified to and desiring to register as an elector in any county, may present himself at any time during business hours to the clerk of the county, then and there to be examined under oath as to his qualifications as an elector. Each applicant shall make and subscribe to an application in substantially the following form:

AFFIDAVIT ON APPLICATION FOR REGISTRATION. No.....

Territory of Hawaii, )  
County of                ) ss.

- 1. My full name is.....
- 2. I was born at.....on the.....day  
of.....in the year.....
- 3. My age is.....years. 4. I reside at.....
- 5. My occupation is.....
- 6. I am a citizen of the United States of America.
- 7. I was naturalized as a citizen of the United States of America at  
.....(State) (Territory) of.....  
on the.....day of.....A. D.....  
by the.....Court of.....
- 8. I have resided in the Territory of Hawaii or State of Hawaii,  
or both, not less than one year immediately preceding this date.

OR

I have resided in the Territory of Hawaii or State of Hawaii, or both, not less than nine months immediately preceding this date, and on the date of the next election (primary or general) I will have resided in the Territory of Hawaii or State of Hawaii, or both, not less than one year immediately preceding said election.

(English)

- 9. I am able to speak, read and write the (Hawaiian) language.
- 10. The residence stated in item 8 of this affidavit is not simply because of my presence in Hawaii while employed in the service of the United States, or while engaged in navigation, or while a student at an institution of learning.



11. I have not been convicted of felony without having been pardoned therefor and restored to my civil rights.
12. I solemnly swear that the foregoing statements are true, so help me God.

Subscribed to and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 19 \_\_\_\_\_.

The applicant shall strike out allegations that are inapplicable. **Provided** it shall appear from the application that the applicant has attained the age qualifying him to vote, he shall not be required to furnish the date of his birth or his exact age, but if necessary to a determination of the qualifications of the applicant to vote in the next election (primary or general) he shall furnish the date of his birth. The applicant shall swear to the truth of the allegations in his application before the clerk, who is hereby authorized to administer such oaths. In any case where the clerk shall so desire or believe the same to be expedient, he may demand that the applicant produce a witness or witnesses to further substantiate the allegations of his application.

If the clerk is satisfied that the applicant is entitled to be registered as an elector, the clerk shall number the affidavit consecutively, as approved by him, and shall enter in the general county register the following facts: 1. number of affidavit, 2. date of registration, 3. name of applicant in full, 4. occupation, 5. age, 6. if naturalized, the date of such naturalization and 7. residence.

The applicant shall then affix his signature to the register and the clerk shall affix his signature on the same line of the register. The clerk shall also forthwith enter the name so registered in its proper place in the general index, together with a reference to the page on which the registration appears. An elector having once been registered shall not be required to register again for any succeeding election, except as hereinafter provided. The affidavits so approved or accepted by the clerk shall thereupon be filed consecutively according to their respective numbers, and kept in some convenient place so as to be open to public inspection and examination.

The clerk may designate a subordinate or subordinates to act in his place and stead in all matters covered by this section."

(g) By amending **section 181** by changing the semicolon in the sixth line to a period and deleting the remainder of said section.

(h) By amending **section 183** as follows:

(1) By deleting from the second line the words and figures "mentioned in sections 3613, 10841 and 3970,".

(2) By deleting from the third line the word "crime" and inserting in lieu thereof the word "felony".

(3) By deleting from the ninth line the words "insane or an idiot" and inserting in lieu thereof the words "legally incompetent".

(4) By deleting from the tenth and eleventh lines the words

"crime punishable by imprisonment for a term exceeding one year" and inserting in lieu thereof the word "felony".

(i) By amending **section 203** as follows:

(1) By inserting, preceding the word "suitable" which appears in the first and second lines thereof, the word "two".

(2) By deleting the second sentence of said section and inserting in lieu thereof the following: "One of such boxes shall be marked in plain letters 'For members of Congress', and the other of such boxes shall be marked in plain letters 'For State Offices'. Such boxes shall bear no other device or mark."

(j) By amending **section 206** to read as follows:

**"Sec. 206. Members of Congress and State offices.** There shall be two separate ballots of different colors, one ballot for senators and representatives in Congress and one ballot for governor, lieutenant governor, and senators and representatives in the State legislature. Each such ballot shall be of such color for each election as may be determined by the secretary. The size, weight, shape and thickness of each such ballot shall be determined by the secretary and except as provided in section 174, shall contain the names of all candidates for Congress, or for State office, as the case may be, who have been duly nominated according to law."

(k) By amending **section 208** as follows:

(1) By deleting from the second line the words "for delegate to Congress or the legislature" and inserting in lieu thereof the words "for member of Congress or for State office".

(2) By deleting from the seventh and eighth lines the words "for delegate to Congress or the legislature" and inserting in lieu thereof the words "for member of Congress or for State office".

(l) By amending **section 209** by deleting from the fourth line thereof the words "for a delegate to Congress or the legislature" and inserting in lieu thereof the words "for member of Congress or for State office".

(m) By amending **section 219** by deleting from the second and third lines thereof the words "a ballot for representatives or senators or delegate to Congress, as the case may be," and inserting in lieu thereof the words "the two separate ballots provided for by section 206, each".

(n) By amending **section 221** as follows:

(1) By changing the word "ballot" where appearing in the first, third, seventh and eighth lines thereof to the word "ballots".

(2) By deleting from the fifth line of said section the words "the ballot" and inserting in lieu thereof the words "each ballot".

(3) By deleting from the tenth line the words "the ends of the same" and inserting in lieu thereof "the ends of each".

(4) By deleting from the eleventh line the words "the ballot" and inserting in lieu thereof the words "each ballot".

(o) By amending **section 222** to read as follows:

**"Sec. 222. Method of marking ballot.** A voter shall designate his choice by marking a cross, X, with a black lead pencil in the right-hand square or squares provided for such purpose, opposite the name or names of the candidate or candidates for whom he desires to vote."

(p) By amending **section 235**, as amended by Act 180 of the Session

Laws of 1953, by deleting from the first sentence of the last paragraph thereof the words and punctuation "delegate to congress, senators, representatives," and by inserting in lieu thereof the words "senators in Congress, representatives in Congress, governor, lieutenant governor, senators in the State legislature, representatives in the State legislature,".

(q) By amending section 237, as follows:

(1) By deleting the second paragraph, being the third and fourth lines thereof.

(2) By changing the period at the end of the fifth paragraph, being the period in the eleventh line thereof, to a comma and adding the following:

"save that in the first case above enumerated the ballot shall be rejected only insofar as affected by said illegality."

(3) By inserting in the first line of the last paragraph, being the fourteenth line of the section, between the words "to be" and the word "invalid" the word "totally".

(r) By adding to chapter 6 a new section to be designated 237.01 and to read as follows:

**"Sec. 237.01. Number of blank and rejected ballots, recording of.** In addition to the count of the valid ballots, the inspectors also, as to each separate official ballot, shall determine and record the number of totally blank ballots and the number of totally rejected ballots."

(s) By amending section 238 by changing the period at the end thereof to a comma and adding the following:

"except as otherwise provided."

(t) By adding to chapter 6 a new subtitle, to consist of five sections designated 247.01 to 247.05, inclusive, and to read as follows:

#### "CONTESTS

**Sec. 247.01. Applicability of this subtitle.** Sections 247.02 to 247.05, inclusive, shall apply whenever a contested election, other than one governed by chapters 7, 122 or 127, is subject to determination by a court of competent jurisdiction in the manner provided by law.

**Sec. 247.02. Contests; summons.** Any candidate directly interested, or any thirty duly qualified voters of any election district, may file a complaint in the circuit court of the circuit in which the complainant or complainants reside, setting forth any cause or causes why the decision of any board of inspectors should be reversed, corrected or changed. The complaint shall be filed in the office of the clerk of such circuit court within thirty days following the election proposed to be contested and shall be accompanied by a deposit of \$25 for costs of court. The clerk shall thereupon issue to the defendants named in such complaint a summons to appear before such circuit court within ten days after service thereof.

**Sec. 247.03. Hearing; judgment.** Such complaint shall be heard by the circuit court in which the complaint was filed as soon as it reasonably may be heard. On the return day, the court, upon its motion or otherwise, may direct summons to be issued to any person who may be interested in the result of the proceedings.

At the hearing, the court shall cause the evidence to be reduced to writing and shall give judgment, stating all findings of fact and of law. Such judgment may invalidate the election on the grounds that a correct result cannot be ascertained because of a mistake or fraud on the part of the inspectors of election; or decide that a certain candidate, or certain candidates, received a majority or plurality of votes cast and were elected. If such judgment should be that the election was invalid, a certified copy thereof shall be filed with the governor, and he shall duly call a new election to be held within sixty days after filing such judgment; and if the court shall decide which candidate or candidates have been elected a copy of such judgment shall be served on the secretary, who shall sign and deliver to such candidate or candidates certificates of election, and the same shall be conclusive of the right of the candidate or candidates to the offices.

**Sec. 247.04. Powers of courts; costs.** The circuit court shall have power to compel the attendance of witnesses, to punish contempts and to do whatsoever else may be necessary fully to determine the proceedings, and to enforce its decrees therein. The court may make such special rules as it may find necessary or proper. The costs shall be the same as in trials in the circuit courts at chambers.

**Sec. 247.05. Appeal.** The decision of the circuit court concerning any question properly involved in any complaint and proceeding shall be final and binding upon all parties unless an appeal is prosecuted to the supreme court within ten days after the decision of the circuit court in the manner provided by law for civil appeals to the supreme court from the circuit court, or in such other manner as may be provided by law. The supreme court, upon determination of any such appeal, may enter any judgment the circuit court would be authorized to enter."

(u) By amending section 240.01, added by Act 238 of the Session Laws of 1953, by deleting the second, third, fourth, fifth and sixth paragraphs thereof and inserting in lieu thereof the following:

"To the respective county clerks, as to county ballots. To the secretary, in all other cases."

(v) By amending section 243 as follows:

(1) By deleting from the form of certificate of election therein set forth the words and punctuation "(Senator or Representative, as the case may be)" and inserting in lieu thereof the words and punctuation "(name of office)".

(2) By deleting from the form of certificate of election which appears therein the word "election" which precedes the word "district".

(w) By amending section 265, as amended by Act 152 of the Session Laws of 1947, by deleting from the next to the last paragraph the words "for delegate to Congress" and inserting in lieu thereof the words "for members of Congress, governor, and lieutenant governor,".

(x) By adding to chapter 7 a new section to be numbered 267.01, and to read as follows:

"Sec. 267.01. **Filing of oath.** The name of no candidate for any office shall be printed upon any official ballot, in any primary or

general election, unless the candidate shall have taken and subscribed the following written oath or affirmation, and at the time of filing his nomination papers shall have filed the same therewith.

The aforesaid written oath or affirmation shall be in the following form:

'I, \_\_\_\_\_, do solemnly swear and declare, on oath, that I do not advocate, or aid or belong to any party, organization or association which advocates, the overthrow by force or violence of the government of Hawaii or of the United States; that if elected to office I will support and defend the Constitution and laws of the United States of America, and the Constitution and laws of the State of Hawaii, and will bear true faith and allegiance to the same; that if elected I will faithfully discharge my duties as \_\_\_\_\_ to the best of my ability; that I take  
(name of office)  
this obligation freely, without any mental reservation or purpose of evasion; So help me God.'

Upon being satisfied as to the sincerity of any person claiming that he is unwilling to take the above prescribed oath only because due to religious beliefs he is unwilling to be sworn, he may be permitted, in lieu of such oath, to make his solemn affirmation which shall be in the same form as the said oath except that the words 'sincerely and truly affirm' shall be substituted for the word 'swear' and the phrases 'on oath' and 'So help me God' shall be omitted. Such affirmation shall be of the same force and effect as the prescribed oath.

The oath or affirmation shall be subscribed before the officer administering the same, who shall endorse thereon the fact that the oath was subscribed and sworn to or the affirmation was made together with the date thereof and affix the seal of his office or of the court of which he is a judge or clerk.

It shall be the duty of every notary public or other public officer by law authorized to administer oaths to administer the oath or affirmation by this section prescribed and to furnish the required endorsement and authentication. No charge shall be made for the performance of this duty."

(y) By amending section 268 as follows:

(1) By deleting from the paragraph numbered "1." the words "For delegate to Congress and members of the legislature" and inserting in lieu thereof the words "For members of Congress and for state offices".

(2) By deleting from the paragraph numbered "3." the words "for territorial or county offices".

(aa) By amending section 275, as amended by Act 51 of the Session Laws of 1949, by amending the last sentence thereof to read as follows:

"The inspectors shall, on separate sheets or blanks to be provided for that purpose, make full and accurate returns of the votes cast and shall forthwith transmit copies as provided in section 240.01. Additionally, there shall be sent one copy of each return to the chairmen of the central and county com-

mittees of each party, and to the secretary and county clerk of the county where the primary is held, whichever shall not have received the original."

(bb) By amending **section 276**, as amended by Act 51 of the Session Laws of 1949, by deleting from the first paragraph the words "provided, that any candidate for any office" and inserting in lieu thereof the words "provided, that any candidate for any county office".

(cc) By amending **section 277** as follows:

(1) By inserting after the words "county clerk" in the second line thereof and preceding the semicolon, the words "if it be a county office, otherwise under the supervision of the secretary".

(2) By deleting from the third line the word "clerk" and inserting in lieu thereof "officer who is to supervise the drawing".

(dd) By amending **section 283** by inserting after the words "county clerk" in the seventh line of said section, the words "or secretary, as the case may be,".

(ee) By amending **section 604** as follows:

(1) By changing the caption to read "Elective county officers."

(2) By deleting the first paragraph of said section.

(ff) By amending **section 1541.02**, added by Act 246, Session Laws of 1947, as follows:

(1) By deleting from the second line the words "of the Territory".

(2) By deleting from the fifth and sixth lines the words "crime punishable by imprisonment for more than one year, whether such penalty is imposed or not," and inserting in lieu thereof the word "felony,".

(gg) By amending **section 10841** by deleting from the third and fourth lines the words "crime punishable by imprisonment for more than one year, whether such penalty is imposed or not;" and inserting in lieu thereof the word "felony;".

**SECTION 2.** Whenever, in the laws of Hawaii other than chapters 4, 5, 6 and 7 of the Revised Laws of Hawaii 1945, as amended, mention is made of a representative or senatorial district, the same shall be deemed to refer to the geographical area which comprised such district as the same was constituted by the Hawaiian Organic Act.

**SECTION 3.** Requirements as to residence, citizenship or other status or qualifications in or under the State prescribed by the laws of Hawaii shall be satisfied pro tanto by corresponding residence, citizenship or other status or qualifications in or under the Territory.

**SECTION 4.** Whenever, under the laws as they stood prior to the taking effect of this Part I, a voter has been registered and remains so upon the taking effect of this Part I, or has been registered and his name has been erased by reason of failure to vote, such voter shall be deemed to be a registered voter, or upon compliance with applicable law shall be entitled to have his name restored in the register, as the case may be, in the precinct

and district in which he belongs according to the address set forth in such registration, subject in all cases to change or correction of such register, or disqualification or challenge of such voter, as provided by law.

## PART II

### SUBMISSION OF PROPOSITIONS TO THE VOTERS

SECTION 5. Upon such day as shall be designated by proclamation of the governor, there shall be submitted to the voters, for adoption or rejection, all propositions for the amendment of the proposed Constitution ratified by the people at the election held on November 7, 1950, the submission of which to the voters for their adoption or rejection is required or provided for by Act of Congress, including propositions relating to the boundaries of the State.

SECTION 6. The ballot for such submission shall be printed and distributed by the secretary of Hawaii, may contain any number of propositions, and shall be substantially in the following form:

#### "OFFICIAL BALLOT (Date of Election)"

<p>Shall the proposed Constitution ratified by the people at the election held on November 7, 1950 be amended by the adoption of the following proposition:</p>	<p>YES</p>	
<p>(Here set forth in quotation marks the proposition as framed by Congress, or as framed by proclamation of the Governor if not framed by Congress.)</p>	<p>NO</p>	

To vote, make a X in the square to the right of 'YES' or 'NO'."

The voter shall mark his ballot by a cross mark, X, in one of the squares to the right of the word "YES" or "NO".

The returns of said submission shall be made by the election officers directly to the secretary of Hawaii, who shall certify the results of the submission to the governor. The governor shall certify such results to the President of the United States, unless Congress shall otherwise provide.

SECTION 7. At least ten days before the election held as provided in section 5, the secretary of Hawaii shall cause a true and correct copy of the official ballot framed as provided in section 6, to be published in two newspapers of general circulation in the Territory of Hawaii.

## PART. III

### SCHEDULE AND APPROPRIATIONS

SECTION 8. Applicability.

(a) Part I of this act (sections 1 to 4 inclusive) shall apply to all elections held by proclamation of the governor, issued prior to the admission of the State of Hawaii into the Union and upon authorization by Congress, for the election of State elective officers and senators and representatives

in Congress, or any of them. Such proclamation of the governor shall be in lieu of the proclamation provided for by section 171 of the Revised Laws of Hawaii 1945, shall be posted as therein provided, and shall cover the subject matter provided for by sections 171 and 251 of the Revised Laws of Hawaii 1945, together with such other matters as the governor may deem appropriate. The notice of the primary election, provided for by section 264, shall conform to the governor's proclamation. Notwithstanding any contrary provision of section 251 of the Revised Laws of Hawaii 1945, new precincts may be established, and changes may be made in the numbering and boundaries of precincts, by said proclamation of the governor.

(b) In the event of a general election held as set forth in subsection (a) and falling on the date provided by law for the election of county officers, the governor shall include the election of such county officers in the proclamation issued by him, and in such event Part I of the act shall apply both to the primary and general election of said county officers; **provided** further, that: (1) said proclamation of the governor shall be in lieu of the county proclamations provided for by sections 6218, 6222, 6556 and 6558 of the Revised Laws of Hawaii 1945; but the county clerk of each county nevertheless shall post in the manner therein provided, a notice setting forth the matters therein provided for as determined by the governor's proclamation; and (2) returns of the primary and general election of the county officers included in the governor's proclamation shall be certified by the respective county clerks to the secretary of Hawaii, who shall certify the results to the governor.

(c) Part II of this act (sections 5 to 7 inclusive) shall apply to elections at which propositions are submitted as therein provided, and if the Act of Congress requiring or providing for such submission states that the voters qualified to vote thereon shall be determined in accordance with State law, then Part I of this act also shall apply to such elections.

(d) Whenever Part I of this act applies to any election, said Part I also shall apply to the registration and qualification of voters for said election, the nomination of candidates, the returns and certifying of the results of the elections, and all other matters having to do with such election.

(e) Notwithstanding any provision of section 1(a) the words "Territory" and "Territory of Hawaii" shall continue to appear in the body of the form of affidavit set forth in section 178 of the Revised Laws of Hawaii 1945, and until the State of Hawaii is admitted to the Union shall continue to appear: (i) in that portion of the form of affidavit in said section 178 which sets forth the venue, and (ii) whenever used in reference to the laws or funds of the Territory, and (iii) whenever used in reference to the central committees of the parties, and (iv) whenever used in reference to circulation or organization throughout the Territory.

(f) The legislature hereby declares that as to all matters to which Part I of this Act applies pursuant to subsections (a) to (d) inclusive, hereinafter called "the first State elections", the constitution ratified at the election held on November 7, 1950 shall be, and hereby is incorporated herein as, a part of the governing law in lieu of the Hawaiian Organic Act, and in case of conflict between the provisions so incorporated and this act the former shall prevail. It is the further intent of the legislature that for the first State elections, every provision, other than the Hawaiian Organic Act, heretofore or hereafter enacted by Congress and which is self-executing, or (if effective only upon acceptance by the people of Hawaii) which has not



been rejected by the vote of the people, shall supersede the provisions of said Part I and said Constitution if and to the extent inconsistent therewith and shall be the supreme and controlling law as to all such matters.

(g) For the purposes of the first State elections, the method of setting forth on the ballot the term or terms of the respective offices being voted for shall be by setting forth the date or dates on which such term or terms will end, save that as to the office of senator in Congress or senator in the legislature no term or terms shall be specified and the requirement that the term be set forth on the ballot shall not apply to the first State elections.

(h) The first State elections shall not be deemed to be special elections within the meaning of sections 174 and 262 of the Revised Laws of Hawaii 1945.

(i) At the first State elections the number of signatures of qualified electors required for nomination papers for candidates for Congress and for all state offices shall be fifteen, notwithstanding section 265 of the Revised Laws of Hawaii 1945.

(j) Part I of this Act shall be in full force and effect from and after the admission of the State of Hawaii, except as modified or changed by an act of Congress of the United States, or by the Constitution of the State, or by a proposition adopted by the people of Hawaii at an election at which such proposition is duly submitted, or by act of the State legislature.

**SECTION 9. Appropriations.** Any appropriation for expenses of elections shall be expendable for the expenses of elections conducted under this Act, as well as for the purposes otherwise authorized. Such appropriations may be augmented by allotments made by the governor from the contingent fund, for expenditure by the secretary of Hawaii for the expenses of elections conducted under this Act.

**SECTION 10.** All laws or parts of laws inconsistent with this Act, are hereby amended to conform to this Act.

**SECTION 11.** Sections 9 and 10 of this Act shall take effect on its approval, and the appropriation made by section 9 may be expended at any time for necessary preparations for the first State elections. The remainder of this Act shall take effect as set forth in section 8.

(Approved May 26, 1955.) **H.B. 246, Act 191.**

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## ACT 192

An Act Providing for the Conservation of Fish and Other Marine Life, Authorizing the Board of Commissioners of Agriculture and Forestry to Administer a Conservation Program with the Assistance of County Advisory Committees Hereby Established and Providing Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Declaration of legislative finding.** The legislature finds that reef and inshore fishing has greatly deteriorated in Hawaii as the result of excessive taking of fish in territorial waters. The legislature also finds that conservation of its marine life is vital to the Territory's economy as well as to the recreation of its citizens and visitors. As a consequence of these findings it is declared to be the policy of the Territory that the taking

of fish and marine animals in certain areas be subject to restriction for the purpose of conserving, supplementing and increasing the Territory's marine resources.

**SECTION 2. Conservation area; administration.** All marine waters of the Territory are hereby constituted a marine life conservation area to be administered by the board of commissioners of agriculture and forestry (hereinafter called the board) subject to the provisions of this Act and any other applicable laws not inconsistent herewith or with any rules or regulations promulgated pursuant hereto. No person shall fish for or take any fish, crab, lobster, squid or other marine animal within any conservation district established pursuant to this Act except in accordance with rules and regulations promulgated by the board pursuant hereto.

**SECTION 3. County advisory committees.** There is hereby created in the city and county of Honolulu and the counties of Kauai, Maui and Hawaii fishery advisory committees. Each committee shall be composed of members of the board from such committee's county ex officio and five other members appointed pursuant to section 80 of the Organic Act of whom two shall be sports fishermen from different parts of the county, one a commercial fisherman, one a fish processor, and one a fish seller. Two of the appointed members shall be appointed for two year terms and three year terms. At the expiration of the term of the original members their successors shall be appointed for two year terms. Each committee shall select its own chairman and three members shall constitute a quorum. Members of the committees shall receive no compensation but shall be reimbursed by the board for necessary expenses including stenographic services. The Territorial director of fish and game may call the chairman of the committees to meet for the consideration of proposed regulations applicable throughout the Territory.

**SECTION 4. Powers and duties of advisory committees.** An advisory committee shall meet at the call of its chairman or of any three of its members for the consideration of any matter affecting fishing and fish conservation within its county, including proposed rules and regulations and the administration and enforcement of territorial fishing laws, rules and regulations. Each committee may hear such persons and acquire such information as it desires and shall communicate its findings and recommendations to the board. No rule or regulation creating, abolishing, or otherwise affecting a fish conservation district in any county shall be made by the board unless the board shall have first obtained the recommendation of the advisory committee of such county.

**SECTION 5. Establishment and modifications of conservation district.** The board may establish and from time to time modify the limits of one or more conservation districts in each county and may, if it deems necessary declare all waters within any county a conservation district.

**SECTION 6.** The board, after receiving recommendations of the advisory committees and with the approval of the governor, and after such notice and hearing as are required by law, shall make such rules and regulations governing the taking or conservation of fish, lobster, crab, squid or other marine life as it determines will further the territorial policy of conserving, supplementing and increasing the Territory's marine resources. Such rules and regulations may establish open and close seasons, designate areas in which all or any one or more of certain species of fish

or marine life may not be taken, prescribe and limit the methods of fishing, including the type of mesh and other description of nets, traps and appliances, and otherwise regulate the fishing and taking of marine life either generally throughout the Territory or in specified districts or areas. Such rules and regulations shall upon taking effect supersede any territorial laws inconsistent therewith.

**SECTION 7. Permits.** The board may prohibit fishing or other taking of marine life in any conservation district except by permit to be issued by it on such terms and conditions as it shall deem necessary to the purposes of this Act.

**SECTION 8. Penalty.** Any person violating any provision of this Act or any rule or regulation promulgated pursuant thereto shall be fined not more than \$100 or imprisoned not more than thirty days or both.

**SECTION 9.** This Act shall take effect upon its approval.

(Approved May 27, 1955.) **S.B. 80, Act 192.**

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### ACT 193

An Act to Amend Chapter 133 of the Revised Laws of Hawaii 1945 Relating to County Licenses, by Amending Section 7102 Thereof, as Amended, Relating to Peddlers' Licenses, and by Amending Section 7132 of said Chapter 133, Relating to the Transportation of Passengers on Vehicles and Licenses therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 7102** of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the second paragraph thereof to read as follows:

"The fee for an annual license shall be twenty-five dollars and the fee for a monthly license or for a period less than one month shall be five dollars. No license shall be required of persons peddling fish, fresh fruit, leis, flowers or vegetables, nor of any person who has reached the age of sixty years."

**SECTION 2.** Section 7132 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"**Sec. 7132. Fee to carry passengers.** The annual fee for a license to carry passengers for hire in any vehicle shall be five dollars (\$5.00) for each vehicle."

**SECTION 3.** This Act shall take effect on July 1, 1955.

(Approved May 27, 1955.) **H.B. 559, Act 193.**

**ACT 194**

An Act Relating to Actions at Law in District Courts on Promissory Notes or other Contracts in Writing Providing for Attorney's Fee.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any other law to the contrary notwithstanding, where an action instituted in the district court on a promissory note or other contract in writing provides for an attorney's fee, the following rates shall prevail: (1) where the note or other contract in writing provides for a fee in excess of  $33\frac{1}{3}\%$ , no more than  $33\frac{1}{3}\%$  shall be allowed; (2) where the note or other contract in writing provides for a fee of  $33\frac{1}{3}\%$ , the said rate shall be allowed; (3) where the note or other contract in writing provides for a rate less than  $33\frac{1}{3}\%$ , such specified rate shall be allowed; and (4) where the note or other contract in writing provides for a reasonable attorney's fee,  $25\%$  shall be allowed; **provided**, however, that the fee allowed in any of the above cases shall not exceed \$250.00.

SECTION 2. This Act shall take effect upon its approval; **provided**, that the provisions of section 1 of this Act shall only apply to promissory notes or other contracts in writing executed from and after the date of approval of this Act.

(Approved May 27, 1955.) **H.B. 1248, Act 194.**

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**ACT 195**

An Act Relating to the Taxes Applicable in Instances in Which a Person, Firm, Corporation, or the Like, Causes Tangible Personal Property to be Distributed To, By or Through Others Who are Purchasers, Agents, or Employees and Prescribing the Circumstances Under Which the Tax Commissioner May Adopt Rules and Regulations Classifying the Relationship as that of Employer and Employee for the Purposes of the Tax Laws Administered by Him.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Whenever a person, firm, corporation, or the like, shall engage or continue in this Territory in the business of selling tangible personal property, and shall cause such property to be distributed to, by, or through representatives, distributors, dealers, salesmen, peddlers, canvassers, carriers, truckers, or the like, the tax commissioner hereby is authorized to adopt, in the manner provided by law, one or more rules or regulations providing that for the purposes of the tax laws administered by him the group, class or category of persons or business described therein (to be determined by the tax commissioner as may be appropriate for the purposes of the particular rule or regulation) shall, irrespective of whether the relationship or class of business otherwise would be deemed that of seller and buyer, principal and agent, or master and servant, be deemed to be that of employer and employee, **provided**, that no rule or regulation adopted

under this section shall apply to any group, class or category of persons or business as to which the tax commissioner shall determine, or it shall be shown:

(a) That the potential employee has been and will continue to be free from control or direction over the performance of the business or services undertaken by him, and also

(b) That such business or services are performed outside of all the places of business of the potential employer, and also

(c) That the potential employee is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the business or services in which he is engaged or which he has undertaken for, with, or at the behest of the potential employer.

As used in paragraphs (a), (b) and (c) "potential employee" means the person who by said rule or regulation would be classed as an employee, and "potential employer" means the person, firm, corporation, or the like, who by said rule or regulation would be classed as the employer.

SECTION 2. In the event of the adoption of a rule or regulation pursuant to section 1:

(a) The person, firm, corporation, or the like, who is the subject of said rule or regulation and thereafter engages or continues in the business of selling tangible personal property (1) shall be deemed to be selling the same to the persons or entities who would be the buyers if in fact, such representatives, distributors, dealers, salesmen, peddlers, canvassers, carriers, truckers, or the like were employees, (2) shall be deemed to be the employer of the persons classed by said rule or regulation as employees, and (3) shall be subject to all of the liabilities, duties and obligations of such sellers and employers under the tax laws administered by the tax commissioner.

(b) The persons so classed as employees (1) shall not be deemed to be buying such property or reselling the same, (2) shall be deemed to be the employees of the person so deemed an employer, and (3) shall be subject to all of the liabilities, duties and obligations of employees, under the tax laws administered by the tax commissioner.

(c) The rule or regulation of the tax commissioner (1) shall provide for the collection, in lieu of withholding, of taxes levied upon the persons so classed as employees in cases in which such persons themselves retain, from receipts handled by them, their fees, charges, commissions, mark-ups, percentages, or other remuneration, (2) shall designate the fees, charges, commissions, mark-ups, percentages, or other remuneration, constituting the taxable compensation of the persons classed as employees, and (3) shall contain such other provisions as may be necessary or proper to effectuate this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) S.B. 363, Act 195.

## ACT 196

An Act Exempting from Taxation Under Chapters 94 and 101, Revised Laws of Hawaii 1945, All Property Actually and Solely Used in the Manufacture and Processing of Mayonnaise and the Value and Gross Proceeds of Sales of Mayonnaise Manufactured and Processed in the Territory in so far as the Manufacturer or Processor is Concerned.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. All property in the Territory, both real and personal, actually and solely used, whether by the owner or a lessee thereof, in connection with the manufacture and processing of mayonnaise, shall be exempt from all property taxes for a period of five years from January 1, 1955.

SECTION 2. The provisions of chapter 101 of the Revised Laws of Hawaii 1945 shall not apply to the manufacturer or processor in respect of the value and gross proceeds of sales of mayonnaise manufactured and processed in the Territory, and such value and gross proceeds of sale shall be exempt from the tax imposed by said chapter for the period of five years from January 1, 1955.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) **H.B. 643, Act 196.**

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ACT 197

An Act Providing for the Service of Garnishee Summons on the Territorial Auditor Outside of the Judicial Circuit of the District Courts by Amending Section 9675, as Amended, and Section 10327, Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 9675 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the second to the last clause appearing in the first paragraph thereof to read as follows:

“and to issue garnishee summons which shall be operative as to the garnishee throughout the judicial circuit in which the district court issuing the same is situated, except that where the garnishee of a government beneficiary is the auditor of the Territory of Hawaii, the garnishee summons may be served and shall be operative outside of such judicial circuit within the Territory;”

SECTION 2. Section 10327 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

“Sec. 10327. Service on garnishee. Service of such copy upon the garnishee may be made in any of the manners here described, namely: if he lives, or has an office in the district in which process is issued, by the officer handing a copy to him in person, or by leaving it in his office, in charge of some deputy or clerk or other employee or attache of the office; if he lives in a district other than that in which the process was issued, by handing a copy to him in person or by depositing

it in the nearest post office, in a sealed envelope, registered and postage prepaid, return receipt requested, and addressed to the officer at his accustomed post office."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) H.B. 698, Act 197.

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### ACT 198

An Act Amending the Provisions of Chapter 36 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Regulation of Beauty Culture.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2031, Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new subsection (1) to follow subsection (k) to read as follows:

"(1) 'Junior operator' shall have the meaning as defined in paragraph 1 of section 2039, as amended, of the Revised Laws of Hawaii 1945."

SECTION 2. Section 2032 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting the words "for commercial purposes demonstrate any hair or cosmetic preparations or products or," after the first "shall" in said section.

SECTION 3. Section 2039, Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending paragraphs numbered "1" and "2" to read as follows:

"1. An operator may be registered in any of the classified practices or occupations under this chapter upon the payment of an examination fee of \$15.00 for each of the practices or occupations or any one or any combination of the practices or occupations, **provided** he is of good moral character and has an education equivalent to the completion of 4 years of high school and has either (a) served the required time as an apprentice under the supervision of a registered operator or instructor, as determined by the board for any one or combination of the practices but not less than one year including 2,000 hours for each of the two classified occupations; or (b) has acquired the equivalent training in a registered school; and has passed the prescribed examination or examinations to the satisfaction of the board; **provided**, however, that an applicant for the examination to practice the removal of superfluous hair by the use of electricity and commonly known and defined as the practice of electrolysis, shall have, in addition to the 2,000 hours above required, additional training under the supervision of a registered operator or instructor of at least 600 hours including such other studies as the board may prescribe; and **provided** further that an applicant may be registered solely in the classified practice of a manicurist to work in barber shops only upon serving 700 hours of time as an apprentice under the supervision of a registered operator or instructor or 350 hours of training in a registered school and upon satisfying all the other requirements of

this section; and **provided** further that an applicant may be registered solely as a "hair cosmetician" in the classified occupation of a cosmetician upon serving 1,200 hours of time as an apprentice under the supervision of a registered operator or instructor or 600 hours of training in a registered school and upon satisfying all the other requirements of this section. Any applicant who fails an initial examination after paying the initial examination fee of \$15.00 shall thereafter pay an examination fee of \$7.50 for any subsequent examination.

Any person who has taken but has not successfully passed the examination or examinations prescribed by the board for any one or any combination of the practices or occupations but who has satisfied all the other requirements of this section may be registered as a 'Junior Operator' and may work in a beauty shop under the supervision of a licensed operator in the practices or occupations in which such person has been examined so long as such person continues to take the prescribed examination or examinations in good faith. Failure or refusal on the part of a 'Junior Operator' to take any prescribed examination or examinations shall be sufficient reason for the revocation of such registration by the board.

2. Instructors may be registered in any of the classified practices or occupations upon the payment of an examination fee of \$15.00, **provided** they are of good moral character and have completed a course satisfactory to the board in the theory and practice of education and have served actively for a period of at least 3 years as a registered operator in the Territory or in another jurisdiction having standards for registration in the particular practice or occupation substantially equivalent to those of the Territory and have passed an examination satisfactory to the board; **provided, however, that the board may at its discretion and without regard to the requirements of this section, issue and revoke a temporary certificate to any person holding a valid and existing instructor's license in another territory, county or state having standards substantially equivalent to those in force in the Territory at the time of such registration, for the limited purpose of either (1) commercially demonstrating in the Territory any hair or cosmetic preparations or products identifiable by a trade name or trademark; or (2) instructing in hairstyling in a registered school or under the sponsorship of any organization approved by the board until the next following instructors examination given by the board. Instructors duly registered under the provisions of chapter 45, Revised Laws of Hawaii 1945, as amended, need not be holders of instructors' certificates."**

SECTION 4. Section 2042, Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending paragraph "c" to read as follows:

"(c) Renewal. Every registered operator and instructor shall pay to the treasurer of the board between the first and last days of December of each year a renewal fee of \$2.00. The payment of the renewal fee shall entitle the registrant to renewal of his certificate."

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1955.) H.B. 1243, Act 198.



## ACT 199

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Issue General Obligation Bonds in the Sum of Six Million Dollars (\$6,000,000.00) for the Completion of the Construction of the Kalihi Tunnel and Its Approach Roads and for the Construction of a Second Bore.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of the city and county of Honolulu is hereby empowered and authorized to issue general obligation bonds in the total sum of six million dollars (\$6,000,000.00), **provided**, however, that the limitations and requirements in the Organic Act and chapter 117 of the Revised Laws of Hawaii 1945 as to the total bond indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this Act, and **provided**, further, that, any other law to the contrary notwithstanding, payments for interest and principal shall be made from funds derived from any extra or special fuel tax by law set aside for the use of the city and county of Honolulu.

SECTION 2. The moneys realized from such bond issue shall be expended for the completion of the construction of the Kalihi tunnel and its approach roads and for the construction of a second bore.

SECTION 3. Any provisions of this Act or any other territorial law to the contrary notwithstanding, it is expressly **provided** that, in the event it is found possible to secure federal funds made available under any Act of the Congress of the United States to be expended in connection with or for the construction of any of the items authorized by this Act (whether or not there is specific provision for expenditure thereof in connection with federal funds), the proper city and county or territorial officers (who are for such purpose hereby given authority to expend the funds received or realized from the issuance and sale of any bonds authorized by this Act), or both, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, transfer such funds to such other governmental (federal, Territory or city and county) officer, officers or agencies for expenditure thereof, and do and perform such other acts and things as may be necessary or be required by such Act or Acts of said Congress or any regulation or requirement of the federal government, as a condition to securing such federal funds for the construction of such public improvements.

Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor of the Territory or the mayor of the city and county of Honolulu (as the event may require) be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any Act or Acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency or instrumentality to the Territory of Hawaii or the city and county of Honolulu for the construction, in whole or in part, of any of the items authorized under this Act or the cost of which, or of any portion thereof, would be payable or could legally be paid out of the proceeds of such bonds if sold.

SECTION 4. This Act shall take effect upon the enactment of legislation by the Congress of the United States of America ratifying this Act and authorizing such bond issue, notwithstanding the limitations of section 55 of the Organic Act of the Territory of Hawaii or any other law to the contrary.

(Approved May 27, 1955.) **H.B. 1316, Act 199.**

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### ACT 200

An Act Directing the Bureau of Employment Security to Prepare a Report on the Estimated Cost of Extending Unemployment Benefits to Government Workers and to Report to the Twenty-Ninth Session of the Territorial Legislature.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. In order to supply the Twenty-Ninth Territorial Legislature with accurate and comprehensive information on the estimated cost of extending the provisions of chapter 74 to employees of the Territory and its political subdivisions, the bureau of employment security shall make a survey of separations of government officers and employees during the biennium 1955-1957, the reasons for separation, the periods of unemployment, if any, and the estimated cost of unemployment benefits which would have been paid if these officers and employees were covered by the provisions of chapter 74.

Copies of this report shall be furnished to the Twenty-Ninth Territorial Legislature not later than the tenth day of the session and shall include recommendations on methods of financing such a program.

SECTION 2. The personnel directors of the Territory and the several counties and all departments and agencies of the Territory and the several counties shall cooperate with the bureau of employment security and shall promptly furnish to the bureau any information, reports, or statistics requested by the bureau in connection with this survey.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) **H.B. 283, Act 200.**

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### ACT 201

An Act Creating Water Departments for the Counties of Maui and Kauai, Providing for the Authority and Powers of the Boards of Supervisors with Respect thereto, Amending Chapter 123 of the Revised Laws of Hawaii 1945 and Repealing Act 289 of the Session Laws of Hawaii 1949, and Act 152 of the Session Laws of Hawaii 1951.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 123 of the Revised Laws of Hawaii 1945, is hereby amended by adding thereto a new subtitle and new sections to be appropriately numbered and to read as follows:

## "WATER DEPARTMENTS

**Sec. [6334.] Department created; powers, duties and functions.** There shall be a water department of each of the counties of Maui and Kauai. The department shall have charge of and shall administer, manage and superintend the performance of all county matters relating to the public water supply and water facilities of the county and all properties in connection therewith or necessary therefor for the supplying of water, to the public within each county, and shall collect, receive and spend and account for all sums of money derived from the operation thereof, and all other moneys provided for the use or benefit of such waterworks and all properties used for or held in connection with such waterworks and all equipment, supplies and other materials necessary or incidental to the operation and administration of such waterworks.

Under such policies as may be determined by the board of supervisors and subject to its approval, the department shall:

(1) determine the standard for construction and the making of extensions, increases, betterments or improvements to become a part of the waterworks of the county;

(2) specify the character, type, size and quality of such improvements, and the requirements for water facilities to and within any subdivisions of land, including but not limited to, requirements for service, lateral, fire hydrants, pumps, storage facilities and their appurtenances, and prescribe the conditions under which the same shall be constructed and installed;

(3) contract for work and purchase necessary supplies and materials or equipment, when the cost of the same can be met from any funds under the board's control or from revenue or reserves of the waterworks or from the proceeds of bonds authorized for such waterworks. All contracts shall be executed in the name of the county and shall be signed by the chairman of the board of supervisors.

(4) enter into contracts for the purchase of water and develop and acquire property for the purpose of developing water resources; and

(5) locate and determine the character and type of all construction and additions, extensions and improvements to the waterworks and shall determine the policy for making the same.

**Sec. [6335.] Manager and chief engineer; assistants and employees.** The department shall be in the charge of a registered engineer, who shall be known as the manager and chief engineer of the water department, who shall be appointed and be removable by the chairman of the board of supervisors with the approval of the board of supervisors and who shall have such qualifications as the board may deem necessary. The position of manager and chief engineer shall not be subject to the provisions of chapter 2. He shall hold office at the pleasure of the chairman and the board, and he shall be vested with and have, enjoy, perform and be subject to all the powers, functions, duties and liabilities conferred or imposed upon the department by this subtitle and such further powers, duties and functions as shall be described by the board.

The manager and chief engineer shall have the power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the department in conformity to chapters 2 and 3. The board may require a bond in such amount as it shall deem proper from the manager and chief engineer or from any employee.

**Sec. [6336.] Reports.** The manager and chief engineer shall present to the board full annual reports of the principal transactions of the department during the last completed year at such times as may be prescribed by the board. Such report shall contain such recommendations as he may think proper or necessary for the improvements in the department or to the services rendered by it.

**Sec. [6337.] Board; powers.** The board of supervisors shall have power to fix rates for water and standby service so that revenues derived therefrom may be sufficient to make the department self-supporting; **provided** that the rates in effect on January 1, 1955 shall not be raised before July 1, 1957. The board shall provide for the enforcement of the payment of such rates by ordinance which ordinance may provide for the payment of interest or for the discontinuance of service in the event of delinquencies. All water furnished to the county or any department thereof or to the Territory or any department thereof shall be charged for and collected at the regular rates established by the board, but the board may establish special rates for water or standby service furnished or to be furnished to the county for fire protection. No rate shall be set except after public hearing held pursuant to proper and adequate notice of the time and place therefor.

**Sec. [6338.] Legal advisor.** The county attorney shall be the legal advisor to the department and to the board in connection with any matter concerning the department.

**Sec. [6339.] Audits.** The board may employ a certified public accountant to make an annual examination of the accounts and financial status of the department whose fees shall be paid as an expense of the department.

**Sec. [6340.] Reserve fund.** The board may provide for the accumulation of a fund for the purpose of financing major replacements, or extensions and additions, the average estimated annual increment to which, for a period of 10 years, shall not exceed 15 per cent of the gross revenue of the department in any fiscal year.

**Sec. [6341.] Bond sales.** The treasurer of the county shall, when so directed by the board, sell such bonds as may be authorized for the acquisition and development, betterment, construction, replacement, extension or completion of the waterworks; **provided**, that such sale shall otherwise be conducted in accordance with the procedure specified by law for the sale of such bonds. The proceeds from such sale shall be kept by the treasurer in a separate fund to be used only for the purposes for which such bonds were sold.

**Sec. [6342.] Operating expenses, reserves, subsidization by county.** All revenues or moneys derived from the department or otherwise appropriated therefor, other than funds derived from the

sale of bonds, shall be paid into the treasury of the county and maintained by the treasurer in a special waterworks fund. Such funds shall be expended for the following purposes: (a) for the payment of the operating and maintenance expenses of the department, repairs, replacements, additions and extensions; (b) purchase or development of new sources of water; (c) for accident reserve, pension charges, and compensation insurance; (d) for payment of interest and sinking fund on all bonds issued after July 1, 1949, for the acquisition or construction of waterworks and extensions thereto; (e) for the reserve fund as provided in section [6340].

**Sec. [6343.] Disbursements of funds.** All moneys expended by the department pursuant to the provisions of this part shall be disbursed by the treasurer only upon warrants issued by the auditor on vouchers signed by the manager and chief engineer.

**Sec. [6344.] Agreements for joint use of utilities.** The board shall have full power and authority to enter into such arrangements and agreements as it shall deem proper for the joint use with any other person owning the same, or having jurisdiction of the same, of poles, conduits, towers, stations, aqueducts and reservoirs for the operation of any of the properties under its jurisdiction.

**Sec. [6345.] Acquisition of property; eminent domain.** The board may acquire and take in, in the name of the county, by grant, purchase, lease, proceedings in eminent domain or otherwise, rights of any nature in water, and water resources, either above or under ground, property of all kinds and rights therein for watersheds, for the development, conservation or protection of water or water resources, property of all kinds and rights necessary either at the time of taking or for the future proper development and control thereof, for the proper conservation, development and control of water, lands or easements for reservoirs, aqueducts, tunnels, flumes, ditches or pipe lines, and without limitation by reason of the foregoing, all property or rights therein necessary for the construction, maintenance, extension or operation of the waterworks under its jurisdiction and control. The foregoing purposes for which property or rights therein may be acquired and taken are hereby declared to be public uses. The board shall exercise the power of eminent domain in the manner as provided by sections 301 to 319, both inclusive, of the Revised Laws of Hawaii 1945, as amended, and otherwise in accordance with all applicable provisions of the laws of the Territory.

**Sec. [6346.] Advisory board.** The board of supervisors may create an advisory waterworks committee to advise the board in matters of policy and administration affecting the operations of the department and may appoint members to such committees."

SECTION 2. Act 289, Session Laws of Hawaii 1949, as amended, is hereby repealed.

SECTION 3. Act 152 of the Session Laws of Hawaii 1951, as amended, including section 2 thereof, is hereby repealed.

SECTION 4. Upon the effective date of this Act, all powers, duties, assets, responsibilities and obligations of the Kauai county waterworks

board abolished by this Act shall be assumed by the county of Kauai, **provided**, that so long as any revenue bonds issued for the Kauai county water system are outstanding and unless and until the holders thereof consent to a change, all revenues of the water system shall be applied in the manner and for the purposes specified in Act 152 of the Session Laws of 1951 to the end that the obligation of such revenue bonds shall not be impaired. Wherever the designation "Kauai county waterworks board" or its equivalent appears in the laws of the Territory, or in rules and regulations made pursuant to such laws, the same shall read the "Kauai county water department".

SECTION 5. Upon the effective date of this Act, all powers, duties, assets, responsibilities and obligations of the Maui county waterworks board abolished by this Act shall be assumed by the county of Maui, **provided**, that so long as revenue bonds issued for the Maui county water system are outstanding and unless and until the holders thereof consent to a change, all revenues of the water system shall be applied in the manner and for the purposes specified in Act 289 of the Session Laws of 1949 to the end that the obligation of such revenue bonds shall not be impaired. Wherever the designation "Maui county waterworks board" or its equivalent appears in the laws of the Territory, or in rules and regulations made pursuant to such laws, the same shall read the "Maui county water department".

SECTION 6. Upon the effective date of this Act all employees of the Kauai county waterworks board and the Maui county waterworks board, including the manager and chief engineer of each, shall continue as employees of the county of Kauai or Maui, as the case may be. No employee shall suffer a reduction in pay or in vacation and sick leave credits as a result of the transfer of control and supervision of the respective waterworks from the several waterworks boards to the boards of supervisors, nor shall the civil service status of any such employee be changed solely by reason of the enactment of this Act.

SECTION 7. This Act shall in no way be construed so as to adversely affect outstanding contracts or obligations of any of the several county waterworks boards.

SECTION 8. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 9. All laws or parts of laws which are inconsistent with the provisions of this Act are hereby amended to conform herewith.

SECTION 10. This Act shall take effect on July 1, 1955.

(Approved May 27, 1955.) **H.B. 337, Act 201.**

## ACT 202

## An Act Relating to the County of Maui Fuel Tax Fund.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6 of Act 196 (Series A-83) of the Session Laws of 1947, as amended by Act 302 of the Session Laws of 1951, and Act 20 of the Session Laws of 1953, is hereby further amended by deleting therefrom the last paragraph and substituting the following in lieu thereof:

"The county of Maui special tax shall be paid by the tax commissioner into the Territorial treasury, and shall, by the Territorial treasurer, be paid over to the treasurer of the county of Maui for deposit in a special fund hereby created, to be known as the 'special fuel tax fund of the county of Maui'. The moneys in said fund shall be expended by the board of supervisors of the county of Maui for the following projects only and in the following order of priority, to-wit:

1. Construction and surfacing of West Kuiaha road from Libby junction to Kapakalua road.

2. Resurfacing lower Kula road from lower Kula road and Haleakala Highway junction to lower Kula road and upper Kula road junction.

3. Resurfacing Maui High School road from junction at Hana Highway to Maui High School and construction, reconstruction, and surfacing from Maui High School to junction of Baldwin Avenue near the telephone exchange.

4. Construction of one mile (1) of paved highway from Keanae towards Kailua.

5. Construction of one and one-half miles (1½) of Olinda road adjacent to the Makawao Catholic Cemetery.

6. Completion of Omoapio road to H. C. & S. Co. hospital.

Any other law to the contrary notwithstanding, any work to be performed for any of the foregoing project, or any portion thereof, may be done by the county of Maui on force account basis and in such case work on such project need not be performed under contract let in accordance with chapter 9 of the Revised Laws of Hawaii 1945, as amended."

SECTION 2. Section 5 of Act 20 (Series A-121) of the Session Laws of 1953 is hereby amended to read as follows:

"The moneys in the island of Molokai road fund shall be expended on Molokai roads by the board of supervisors for work entirely on force account by resident electors of the island of Molokai for the following:

1. Completion of the East Molokai roads set forth in section 5 of Act 20, Session Laws of 1953.

2. Resurfacing of Kualapuu road, paving thereof from Holomua School to Kualapuu, and Kualapuu to Hoolehua Store.

3. Paving of Momomi and Puukapele roads.

All projects to include construction, reconstruction, surfacing and resurfacing."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) **H.B. 956, Act 202.**

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### ACT 203

An Act to Secure Freedom of Choice of Insurance Companies by Borrowers from Lenders in Loan Transactions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. No corporation, copartnership, association, individual or group of individuals, shall, as a condition of making any loan in which insurance is required to be carried by the borrower, make the granting of such loan contingent on the procuring of such insurance policy with an insurance company designated by the lender.

SECTION 2. Any corporation, copartnership, association, individual or group of individuals making a loan and requiring that the borrower carry insurance as a condition to the making of the loan, shall give such borrower written notice that he is free to procure the required insurance policy from any insurance company authorized to do business in the Territory, provided such insurance company has been rated as to its financial standing by a national insurance or business credit rating organization approved by the insurance commission of the Territory of Hawaii.

SECTION 3. Violation of this Act shall constitute a bar to the recovery of any part of the principal or interest in any proceeding at law.

SECTION 4. Violation of this Act shall also constitute a misdemeanor and shall be punishable by a fine of not more than one thousand dollars or imprisonment of not more than one year or both.

SECTION 5. **Constitutionality.** If any section, clause, or phrase of this Act is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, clause, or phrase thereof, irrespective of the fact that any one or more other sections, clauses or phrases be declared unconstitutional.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 27, 1955.) **H.B. 409, Act 203.**



ACT 204

An Act to Amend Section 5828 of the Revised Laws of Hawaii 1945, as Amended, Relating to Fees for Examinations by the Bank Examiner.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5828 of the Revised Laws of Hawaii 1945, as amended by Act 321 of the Session Laws of Hawaii 1949 and Act 14 of the Special Session Laws of Hawaii 1949, is hereby further amended by adding to subsection 3, at the end thereof, as a separate sentence, the following:

"In computing loan volume, wholesale or flooring loans for automobiles, appliances or other commodities are required to be excluded."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1955.) H.B. 884, Act 204.

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ACT 205

An Act Amending Chapter 221 of the Revised Laws of Hawaii 1945, as Amended, Relating to Tort Actions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 10486 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 10486. **Death by wrongful act.** When the death of a person shall be caused by the wrongful act, neglect or default of any person or corporation, the deceased's legal representative, or any of the persons hereinafter enumerated, may maintain an action against the person or corporation causing the death or against such person or corporation responsible for such death, on behalf of the persons hereinafter enumerated.

In any such action under this section, such damages may be given as under the circumstances shall be deemed fair and just compensation, with reference to the pecuniary injury and loss of love and affection, including (a) loss of society, companionship, comfort, consortium or protection, (b) loss of marital care, attention, advice or counsel, (c) loss of filial care or attention or (d) loss of parental care, training, guidance or education suffered as a result of the death of the person by the surviving spouse, children, father, mother, and by any person wholly or partly dependent upon the deceased person. The jury or court sitting without jury shall allocate the damages to the persons entitled thereto in its verdict or judgment, and any damage recovered under this section, except for reasonable expenses of last illness and burial, shall not constitute a part of the estate of the deceased. If an action be brought pursuant to this section and a separate action brought pursuant to section 10497, such actions may be consolidated for trial on the motion of any interested party, and a separate verdict, report or decision may be rendered as to each

right of action. Any action brought under this section shall be commenced within two years from the date of death of such injured person."

SECTION 2. Chapter 221 of the Revised Laws of Hawaii 1945, is hereby amended by adding a new section 10497 thereto to read as follows:

**"Sec. 10497. Survival of actions.** A cause of action arising out of a wrongful act, neglect or default, except actions for defamation and malicious prosecution, shall not abate by reason of the death of the injured person. Such action shall survive in favor of the legal representative of such person and any damage recovered shall form part of the estate of the deceased."

SECTION 3. Sections 10494, 10495 and 10496, as enacted by Act 206 of the Session Laws of Hawaii 1953, are hereby amended to read as follows:

**"Sec. 10494. Actions which survive death of wrongdoer or other person liable.** All rights of action arising out of physical injury to the person or out of the death of a person as provided by section 10486, shall survive, notwithstanding the death of the wrongdoer or any other persons who may be liable for damages for such physical injury or death.

**Sec. 10495. Death of defendant, no abatement of action.** In any case where the wrongdoer or other person who may be liable for damages for physical injury or death as provided by section 10486 shall die after action shall have been instituted against him therefor, the action shall not abate, but may be continued against the legal representative of his estate in accordance of the provisions of chapter 204 of the Revised Laws of Hawaii 1945.

**Sec. 10496. Death of wrongdoer or other person liable prior to suit, time for commencing action against the estate.** In any case where the wrongdoer or other person who may be liable for damages for physical injury or death as provided in section 10486 shall die before an action has been brought against him, such action may be brought against the legal representative of his estate; **provided**, however, that every such action shall be instituted within the time prescribed by law for filing of claims by creditors of the deceased in the probate proceeding or within two years after the death of the injured person in any action brought under section 10486 or within two years after the date of physical injury in all other cases, whichever shall be earlier."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 27, 1955.) **H.B. 588, Act 205.**

### ACT 206

An Act Relating to Public Utilities, Authorizing the Public Utilities Commission to Employ, Pursuant to the Provisions of Sections 4703 and 4726 of the Revised Laws of Hawaii 1945, as Amended, an Inspector for the Purpose of Inspection of Radio Interferences and Matters Relating thereto, and Increasing the Public Utility Fee Provided for by the said Section 4726.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The public utilities commission is hereby authorized to employ, pursuant to the provisions of sections 4703 and 4726 of the Revised Laws of Hawaii 1945, as amended, an inspector for the purpose of inspection of radio interferences and matters related thereto.

SECTION 2. The second paragraph of section 4726 of the Revised Laws of Hawaii 1945, as amended by Act 180 of the Session Laws of 1949, is hereby further amended to read as follows:

"There shall also be paid to the commission in each of the months of July and December in each year by each public utility which is subject to investigation by the commission a fee which shall be equal to one-eighth of one per centum of the gross income from the public utility business carried on by such public utility during the preceding year, or the sum of fifteen dollars, whichever is greater; provided that in the case of a public utility to which the Civil Aeronautics Act of 1938, as amended, applies, the fee shall be equal to one-twentieth of one per centum of the gross income from the public utility business carried on by such public utility during the preceding year, plus one-fiftieth of one per centum of the par value of the stock issued by such public utility and outstanding on December 31 of the preceding year. Such fee shall likewise be deposited in the treasury to the credit of the fund. The moneys in the fund are appropriated for the payment of all salaries, wages and expenses authorized or prescribed by this chapter."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) **H.B. 1287, Act 206.**

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### ACT 207

An Act for the Relief of Persons Suffering Property Damage from Volcano Activity in Puna, Island of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby transferred from the unexpended balances remaining in the land development revolving fund to the farm loan revolving fund the sum of \$100,000 which sum shall be available for loans to farmers in Puna, Hawaii.

SECTION 2. In case of the damage or destruction of real or personal property of a taxpayer as the result of the volcanic activity at Puna, island

of Hawaii, the tax commissioner is authorized to remit the taxes herein-after mentioned, to become due from said taxpayer suffering such loss, in the manner hereinafter set forth, to wit:

The taxpayer shall on or before December 31, 1955, file a claim, under oath, with the claims commission setting forth the amount of his loss. The commission shall thereupon investigate such claim and determine the total loss suffered by reason of the damage or destruction of said real or personal property, less insurance or other recoveries, and shall certify as soon as practicable the amount of such loss to the tax commissioner. The finding of such commission as to the amounts of such loss shall be final. Upon receipt of such certification the tax commissioner shall remit for a period not to exceed 5 years commencing with the year 1955, (1) all real property taxes for said year 1955 and thereafter as above provided due and payable by said taxpayer on account of any real property on the island of Hawaii, and (2) all taxes due under the provisions of chapter 101 of the Revised Laws of Hawaii 1945, as amended, from said taxpayer on account of any trade or business conducted by said taxpayer on the island of Hawaii for said year 1955 and thereafter as above provided, until the amount of such loss certified as aforesaid shall have been fully recovered, whichever shall first occur.

The claims commission provided for hereinabove shall be comprised of 3 members who shall all be residents of the island of Hawaii. They shall be appointed by the governor in the manner provided for by section 89 of the Organic Act, and shall serve until all such losses shall have been fully determined and certified. The members shall elect their own chairman and shall serve without pay. Each member of the commission shall have the power to administer oaths or affirmations with respect to any matters coming within the scope of the duties of the commission.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1955.) S.B. 860, Act 207.

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## ACT 208

An Act Relating to Civil Service, Amending Chapter 2 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 2 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding thereto a new section, to be appropriately numbered, reading as follows:

"Section [69.01.] **Outside employment.** Any other law to the contrary notwithstanding, an employee subject to any provision of this chapter may engage in outside employment after working hours, but is prohibited and restricted from engaging in any outside employment which is inconsistent or incompatible with or interferes with, the proper discharge of the employee's duties to the Territory or the county, as the case may be. This provision shall supersede all rules and regulations on the subject of outside employment."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 28, 1955.) **H.B. 929, Act 208.**

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**ACT 209**

An Act Appropriating Twenty-eight Thousand Five Hundred Dollars for Expenditure During the Years 1955 and 1956 by the Kamehameha Day Celebration Commission.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of twenty-eight thousand five hundred dollars (\$28,500.00), which shall be used to defray the expenses of Kamehameha Day celebration, the said amount to be allotted in the following manner:

(1) For Oahu .....	\$15,000.00
(2) For Hawaii (excluding Kona, Kau, Hamakua, and Kohala) .....	3,750.00
(3) For Kona .....	1,250.00
(4) For Kau .....	750.00
(5) For Hamakua .....	750.00
(6) For Kohala: North and South Kohala .....	1,000.00
(7) For Maui .....	2,500.00
(8) For Molokai .....	600.00
(9) For Lanai .....	200.00
(10) For Kalaupapa .....	200.00
(11) For Kauai .....	2,500.00

SECTION 2. The amount herein appropriated shall cover all expenditures of Kamehameha Day celebrations of June 11, 1955 and 1956, by the Kamehameha Day celebration commission in the manner and under the provisions established by section 1 of Act 227 of the Session Laws of Hawaii 1939.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1955.) **H.B. 149, Act 209.**

## ACT 210

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Issue Bonds in the Sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) for the Completion of, the Improvements to, and the Development of Certain Existing Public Parks and Playgrounds, and for the Acquisition, Construction and Improvement of New Public Parks and Playgrounds in the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of the city and county of Honolulu is hereby empowered and authorized to issue bonds in the sum of one million five hundred thousand dollars (\$1,500,000.00), **provided**, however, that the limitations and requirements in the Organic Act and chapter 117 of the Revised Laws of Hawaii 1945 as to the total bond indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this Act.

SECTION 2. The moneys realized from the aforesaid bond issue shall be expended for the following purposes:

## 4th Representative District

1. Cartwright Field .....	\$ 40,000.00
2. Honolulu Zoo .....	50,000.00
3. Kahala Park .....	120,000.00
4. Kailua Beach Park .....	70,000.00
5. Manoa Valley Park .....	60,000.00
6. Pali Golf Course .....	100,000.00
7. Sheridan Park .....	155,000.00
8. Waikiki Shell .....	80,000.00
9. Waimanalo Beach Park .....	75,000.00

TOTAL ..... 750,000.00

## 5th Representative District

1. Aiea Playground .....	\$ 75,000.00
2. Puuloa Beach Park (Ewa) .....	50,000.00
3. Fern Park .....	10,000.00
4. Hauula Park .....	120,000.00
5. John Asing Park .....	20,000.00
6. Kalaniana'ole Beach Park .....	80,000.00
7. Kaiulani Park (Kalihi-uka) .....	50,000.00
8. Kalihi Valley Park .....	140,000.00
9. Kaloaloa Park .....	5,000.00
10. Kamehameha Field .....	60,000.00
11. Laie Park; <b>provided</b> , however, if land is not made available for said park by officials of the Church of the Latter Day Saints, then the allocated money is to be used as follows: \$30,000.00 for Kahaluu Park and \$10,000.00 for Punaluu Park .....	40,000.00
12. Pililaa Park .....	50,000.00
13. Waipahu Field .....	50,000.00

TOTAL ..... \$ 750,000.00  
GRAND TOTAL ..... \$1,500,000.00

SECTION 3. Any provisions of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event it is found possible to secure federal funds made available under any Act of the Congress of the United States to be expended in connection with or for the construction of any of the items authorized by this Act (whether or not there is specific provision for expenditure thereof in connection with federal funds), the proper city and county or territorial officers (who are for such purpose hereby given authority to expend the funds received or realized from the issuance and sale of any bonds authorized by this Act), or both, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, transfer such funds to such other governmental (federal, territory or city and county) officer, officers or agencies for expenditure thereof, and do and perform such other acts and things as may be necessary or be required by such Act or Acts of said Congress or any regulation or requirement of the federal government, as a condition to securing such federal funds for the construction of such public park improvements.

Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor of the Territory or the mayor of the city and county of Honolulu (as the event may require) be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any Act or Acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency or instrumentality to the Territory of Hawaii or the city and county of Honolulu for the construction, in whole or in part, of any of the items authorized under this Act or the cost of which, or of any portion thereof, would be payable or could legally be paid out of the proceeds of such bonds if sold.

SECTION 4. This Act shall take effect upon the enactment of legislation by the Congress of the United States of America ratifying this Act and authorizing such bond issue, notwithstanding the limitations of section 55 of the Organic Act of the Territory of Hawaii or any other law to the contrary.

(Approved June 4, 1955.) S.B. 673, Act 210.

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## ACT 211

An Act Repealing Act 23 of the Laws of the Republic of Hawaii 1896.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 23 of the Laws of the Republic of Hawaii 1896, formerly sections 3173-3176 Revised Laws of Hawaii 1935, and presently Note 6B of the Appendix to the Revised Laws of Hawaii 1945, is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1955.) S.B. 732, Act 211.

## ACT 212

An Act to Permit the Reimbursement of Hiroshi Baba and Mitsuru Y. Baba for Payments Made for Public Lands under Special Sale Agreement and Making an Appropriation therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. In the event that it shall be determined by the commissioner of public lands, upon receiving the advice of the superintendent of public works, that Lot 11 of Block 70 of the Mokaulele Heights House Lots, Waiakea, District of South Hilo, Hawaii, Special Sale Agreement No. 2876, is uninhabitable, the commissioner of public lands is authorized to cancel such agreement of sale and reimburse Hiroshi Baba and Mitsuru Y. Baba the sum of \$1,827.34 for principal and interest received by the Territory in payment for said lot.

SECTION 2. The sum of \$1,827.34 is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, for the purpose set forth in section 1 hereof, which amount may be expended upon warrant drawn by the territorial auditor or the treasurer based upon a voucher approved by the commissioner of public lands.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1955.) S.B. 915, Act 212.

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ACT 213

An Act Amending Section 5146 of the Revised Laws of Hawaii 1945, as Amended, Relating to Valuation of Real Property.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5146, as amended, is hereby further amended by adding the following to the end of the third paragraph thereof:

"Any provision to the contrary notwithstanding, any tank or other storage receptacle required by any government agency to be constructed or installed on any taxable real property before water for home and farm use is supplied, and any other water tank, owned and used by a real property taxpayer for storing water solely for his own domestic use, shall be exempted in determining and assessing the value of such taxable real property."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1955.) H.B. 583, Act 213.



## ACT 214

An Act to Amend Act 284 of the Session Laws of 1951, as Amended by Act 183 of the Session Laws of 1953.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 284 of the Session Laws of 1951, as amended by Act 183 of the Session Laws of 1953, is hereby further amended as follows:

(a) By amending the first paragraph of section 1, by deleting therefrom the words "and 104" and inserting in lieu thereof a comma and the following: "104 and 109".

(b) By inserting in section 1, subsection (a), a new paragraph (2) to read as follows:

"(2) Tobacco products, as defined in chapter 109 of the Revised Laws of Hawaii 1945, sold by any person licensed under said chapter to the United States (including any agency or instrumentality thereof that is wholly owned or otherwise so constituted as to be immune from the levy of a tax under chapter 99 or chapter 109 of the Revised Laws of Hawaii 1945), but the person making such sale shall nevertheless, within the meaning of chapters 101 and 109, be deemed to be a licensed seller."

(c) By renumbering the present paragraph (2) of subsection (a), section 1, to become paragraph (3).

(d) By adding to subsection (a), of section 1, a new paragraph (4) to read as follows:

"(4) When the amount of property sold by a licensee turns upon the amount of such property sold through a vending machine or similar device to the customer using the device, there shall not be deemed to have occurred any sale covered by an exemption under paragraph (1), (2) or (3) of this subsection.

(e) By amending subsection (c) of section 1 to read as follows:

"(c) Nothing in this section shall be deemed to exempt any person engaging or continuing in a service business or calling from any part of the tax imposed upon him for such activity, and he shall not be entitled to deduct any amount for tangible property furnished in conjunction therewith even though he separately bills or otherwise shows the amount of the gross income of such business derived from the furnishing of such property."

(f) By deleting and repealing section 2 of said Act.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1955.) **H.B. 883, Act 214.**

**ACT 215**

An Act Creating a Clinic for the Treatment of Alcoholism in the City and County of Honolulu and Providing for the Financing thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The territorial board of health shall establish and conduct a clinic in the city and county of Honolulu for the treatment of alcoholism.

SECTION 2. The costs of the operation of such clinic shall be paid by the board of health from funds obtained by it from the liquor commission of the city and county of Honolulu as hereinafter provided.

SECTION 3. The liquor commission of the city and county of Honolulu shall pay to the board of health for the purposes of this Act at the end of each quarter of the fiscal year five per centum of all funds received by it in payment of liquor license fees.

SECTION 4. Not more than fifty per centum of the funds herein provided shall be expended for personnel provided that the board of health may employ personnel on a part time and contract basis and persons so employed may be employed without being subject to the civil service laws of the Territory or the city and county.

SECTION 5. The director of the clinic may in his discretion defray from the funds obtained as herein provided the hospital expenses of any indigent victim of alcoholism requiring hospitalization for a period not to exceed seven days.

SECTION 6. The board of health may make such rules and regulations for the operation of such clinic as it shall deem necessary.

SECTION 7. This Act shall take effect upon its approval.

(Approved June 4, 1955.) H.B. 1171, Act 215.

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**ACT 216**

An Act Relating to the Development of Fish Ponds, Authorizing the Commissioner of Public Lands to Provide for the Financing of the Development of Government Fish Ponds and the Disposition of the Revenues therefrom.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The commissioner of public lands is hereby authorized to investigate and develop scientific commercial management practices for government owned fish ponds and to reconstruct, rehabilitate, improve and to stock said fish ponds; to expend moneys from the land development revolving fund and the special land funds to effectuate the purposes of this Act without the requirement of any approval by any board of supervisors.

SECTION 2. All revenues derived from any government owned fish pond shall be deposited in the fund from which moneys have been drawn and used to stock, reconstruct, rehabilitate or improve such ponds.

SECTION 3. The personnel and facilities of the board of agriculture and forestry, the department of public works and the University of Hawaii shall be made available to effectuate the purposes of this Act and any expenditures made by such personnel shall be payable from such funds.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1955.) H.B. 1176, Act 216.

### ACT 217

An Act Relating to Taxation, Amending the General Excise Tax Law (Chapter 101 of the Revised Laws of Hawaii 1945), by Adding thereto a New Section.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The general excise tax law, chapter 101 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting therein a new section, to follow section 5455, to be appropriately numbered, and to read as follows:

"Sec. [5455.03.] Technicians. When technicians supply dentists or physicians with dentures, orthodontic devices, braces and similar items which have been prepared by the technician in accordance with specifications furnished by the dentist or physician, and such items are to be used by the dentist or physician in his professional practice for a particular patient who is to pay the dentist or physician for the same as a part of his professional services, the technician shall be taxed as though he were a manufacturer selling a product to a licensed retailer, rather than at the rate of two and one-half per cent which is generally applied to professions and services."

SECTION 2. This Act shall take effect on July 1, 1955 and shall affect taxes incurred on and after that date.

(Approved June 4, 1955.) H.B. 1196, Act 217.

### ACT 218

An Act Relating to Salaries of District Magistrates of the City and County of Honolulu and the Counties of Hawaii, Kauai and Maui, and Amending Sections 9778, 9779, 9780 and 9781, as Amended, of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 9778, as amended, of the Revised Laws of Hawaii 1945, is hereby further amended by deleting the first fourteen lines thereof and inserting in place of the same the following:

	Per month	Per annum
First, second, third and fourth district magistrate, Honolulu,		

who shall not engage in the practice of law during their terms of office	\$ 800.00	\$ 9,600.00
District magistrate, Ewa	325.00	3,900.00
District magistrate, Waianae	325.00	3,900.00
District magistrate, Waialua	325.00	3,900.00
District magistrate, Koolaupoko and Koolauloa	432.50	5,190.00
District magistrate, Wahiawa	325.00	3,900.00

SECTION 2. Section 9779 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting the item reading:

"District magistrate, South Hilo, North Hilo, and Puna 550.00 6,600.00"

and substituting therefor the following:

"District magistrate, South Hilo, North Hilo and Puna, who shall not engage in the practice of law during his term of office \$ 725.00 \$ 8,700.00"

SECTION 3. Section 9780 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending the item as to the district magistrate of Lihue to read as follows:

"District magistrate, Lihue 425.00 5,100.00".

(b) By inserting after the item "District magistrate, Koloa", the following proviso:

"Provided, that in the event of a vacancy in this position, such vacancy shall not be filled, but the work of such district magistrate of Koloa shall be performed by the district magistrate of Lihue, who shall be reimbursed for any necessary expenses incurred thereby"

SECTION 4. Section 9781 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending the item as to the district magistrate of Wailuku to read as follows:

"District magistrate, Wailuku, who shall not engage in the practice of law during his term of office \$ 725.00 \$ 8,700.00".

(b) By inserting after the item "District magistrate, Hana", the following proviso:

"Provided, that in the event of a vacancy in this position, such vacancy shall not be filled, but the work of such district magistrate of Hana shall be performed by the district magistrate of Makawao, who shall be reimbursed for any necessary expenses incurred thereby, and whose salary shall be increased by the sum of \$50.00 per month during the term

of service as district magistrate of Hana."

(c) By inserting after the item "District magistrate, Lanai", the following proviso:

"Provided that in the event of a vacancy in this position, such vacancy shall not be filled, but the work of such district magistrate of Lanai shall be performed by the district magistrate of Lahaina, who shall be reimbursed for any necessary expenses incurred thereby, and whose salary shall be increased by the sum of \$50.00 per month during the term of service as district magistrate of Lanai."

SECTION 5. The salaries contained in the schedule of sections 9778, 9779, 9780 and 9781, as amended, shall not be increased by action of the boards of supervisors of the city and county of Honolulu, and the counties of Hawaii, Kauai and Maui.

SECTION 6. This Act shall take effect on January 1, 1956.

(Approved June 4, 1955.) H.B. 1237, Act 218.

## ACT 219

An Act to Amend Section 12013 of the Revised Laws of Hawaii 1945 Relative to the Appointment of the Administrators of Decedents' Estates.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 12013 of the Revised Laws of Hawaii 1945 is hereby amended by amending the last two lines thereof to read:

"however, the judge may for satisfactory cause disregard the order of priority. Should neither the surviving spouse nor any child being major wish to accept appointment as administrator, such surviving spouse or child may nominate another to act as administrator, and the person nominated may be appointed by the judge without regard to the order of priority set forth herein."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1955.) H.B. 1259, Act 219.

**ACT 220**

An Act Relating to Exemptions from Taxation, Exempting from Taxation under Chapter 94, Revised Laws of Hawaii 1945, All Property Actually and Solely Used in the Growing and Processing of Sandalwood, and Exempting from Taxation under Chapters 94 and 101, Revised Laws of Hawaii 1945, All Property Actually and Solely Used or to be Used in the Manufacture of Pulp and Paper from Bagasse Fibre, and the Value and Gross Proceeds of Sales of such Products in so far as the Grower, Processor, or Manufacturer is Concerned.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. All property in the Territory, both real and personal, actually and solely used whether by the owner or a lessee thereof, in connection with the growing and processing of sandalwood (*santalum*), shall be exempt from all property taxes for a period of five (5) years from December 31, 1954.

SECTION 2. All property in the Territory, both real and personal, actually and solely used or to be used, whether by the owner or lessee thereof, in connection with the manufacture of pulp and paper from bagasse fibre, shall be exempt from property taxes for a period of five (5) years from the first day of January following commencement of construction of a plant or plants on such property for such purpose.

SECTION 3. The provisions of chapter 101 of the Revised Laws of Hawaii 1945 shall not apply to the manufacturer in respect of the value and the gross proceeds of sales of pulp and paper manufactured in the Territory from bagasse fibre, and such value and gross proceeds of sale shall be exempt from the tax imposed by said chapter for the period of five years from the date on which the manufacture of pulp and paper is first begun in any such plant or plants.

SECTION 4. Sections 2 and 3 of this Act shall supersede Senate Bill No. 666 [Act 93] of the Twenty-Eighth Legislature.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 4, 1955.) H.B. 1334, Act 220.

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**ACT 221**

An Act to Waive the Statute of Limitations Relative to the Claim of Patrick Joseph McCabe for Injuries Received while on Duty as a Fireman of the Honolulu Fire Department, City and County of Honolulu, and Authorizing Suit thereon.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. No claim of Patrick Joseph McCabe for and on account of injuries received while on duty as a fireman of the Honolulu fire department, city and county of Honolulu, in Hickam field on December 7, 1941, shall be affected by any statute of limitations, and action may be maintained thereon against the Territory, and suit on such claim is hereby

expressly authorized; **provided** that nothing contained herein shall be construed as an admission of liability on the part of the Territory, and **provided** further that nothing herein contained shall prohibit or prevent the Territory from settling said claim with said Patrick Joseph McCabe.

SECTION 2. There is hereby submitted to the circuit court of the Territory of Hawaii for determination the claim of said Patrick Joseph McCabe for alleged injuries received by him while on duty as a fireman of the Honolulu fire department, city and county of Honolulu, in Hickam field on December 7, 1941.

SECTION 3. The claimant shall commence any action or suit in the circuit court of the Territory of Hawaii within 2 years from the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1955.) **H. B. 1339, Act 221.**

### ACT 222

An Act Increasing the Annual Appropriation for Membership by the Territory in the National Conference of Commissioners on Uniform State Laws.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The words "one hundred fifty dollars", appearing in the first and second lines of section 37 of the Revised Laws of Hawaii 1945, are hereby amended to read "five hundred dollars".

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved June 4, 1955.) **H.B. 1354, Act 222.**

### ACT 223

An Act Providing for the Issuance of Public Improvement Bonds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of the city and county of Honolulu may issue bonds in the sum of two million dollars (\$2,000,000.00), **provided**, that the limitations and requirements in the Organic Act and chapter 117 of the Revised Laws of Hawaii 1945, as to the total bonded indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this Act.

SECTION 2. The moneys realized from the bond issue provided for by section 1 of this Act shall be expended for the construction of sewerage systems in the city and county of Honolulu.

SECTION 3. The board of supervisors of the city and county of Honolulu may issue bonds in the sum of two million dollars (\$2,000,000.00), **provided**, that limitations and requirements in the Organic Act and chapter

117 of the Revised Laws of Hawaii 1945, as to the total bonded indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this Act.

SECTION 4. The moneys realized from the bond issue provided for by section 3 of this Act shall be expended for construction, acquisition by gift, purchase, or the exercise of eminent domain, reconstruction, improvement, betterment, extension and maintenance of projects or undertakings for the control of and protection against floods and flood waters, including drainage and rehabilitation of lands already flooded; **provided**, that to the extent any of the foregoing work is a private responsibility such responsibility may be enforced by the city and county in lieu of the work being done at public expense.

SECTION 5. That the Congress of the United States of America be, and it is hereby requested through the Delegate to Congress from the Territory of Hawaii to enact legislation which will enable the Territory of Hawaii, notwithstanding any provisions of the Hawaiian Organic Act, or of any Acts of Congress to the contrary, to authorize the board of supervisors of the city and county of Honolulu to issue public improvement bonds in the sum of two million dollars (\$2,000,000.00) for construction of sewerage systems in the city and county of Honolulu and to issue public improvement bonds in the sum of two million dollars (\$2,000,000.00) for construction of flood control and drainage systems in the city and county of Honolulu.

SECTION 6. This Act shall take effect upon the enactment of legislation by the Congress of the United States of America ratifying this Act and authorizing such bond issues, notwithstanding the limitations of section 55 of the Organic Act of the Territory of Hawaii or any other law to the contrary.

(Approved June 4, 1955.) **S.B. 344, Act 223.**

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## ACT 224

An Act Making Available an Appropriation from the General Revenue of the Territory for the Claim of Alfred Nobriga, Contractor, Relating to Additional Compensation for Work Performed on Carpenter and Machine Shops for Kauai Vocational School Project No. 5572, District of Lihue, Island of Kauai; and Authorizing Suit against the Territory for the Claim of Gottfried Seitz.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated out of any moneys in the treasury received from general revenues the sum of four thousand dollars (\$4,000.00) to be expended as herein provided.

SECTION 2. The amount appropriated or as much thereof as may be necessary, shall become available only after it has been determined by a court of competent jurisdiction that the Territory of Hawaii is liable for alleged additional compensation for work performed by Alfred Nobriga, contractor, in carrying out the terms of a contract entered into by him with



the department of public works of the Territory of Hawaii for construction on carpenter and machine shops for Kauai Vocational School Project No. 5572, district of Lihue, island of Kauai.

**SECTION 3.** For the purposes of this Act and adjudication of said claim, the immunity of the Territory to suit and existing statute of limitations is hereby waived and suit on any such claim is expressly authorized and said Alfred Nobriga may proceed against the Territory as in the case of any other defendant, subject to the same procedures and defenses except for the defense of immunity from suit; provided that nothing contained herein shall be construed as an admission of liability on the part of the Territory, provided further however, that nothing herein contained shall prohibit or prevent the department of public works from settling said claim with said Alfred Nobriga.

**SECTION 4.** For the purposes of this Act an adjudication of said claim, the receipt of any sums of money by Alfred Nobriga in payment of the contract hereinabove mentioned, or of any specific item therein contained, shall not constitute a waiver of forfeiture of his right to an adjudication of said claim by suit against the Territory of Hawaii.

**SECTION 5.** The claimant shall commence any action or suit in the circuit court of the Territory of Hawaii within two years from the effective date of this Act.

**SECTION 6.** The immunity of the Territory to suit and the existing statute of limitations are hereby waived as to suit on the claim of Gottfried Seitz, for loss of salary resulting from the alleged wrongful dismissal of the said Gottfried Seitz from the position of adult probation officer, first circuit court, Territory of Hawaii; provided, however, that any suit under the authority of this section 6 shall be commenced within two years from the effective date of this Act.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved June 6, 1955.) **H.B. 945, Act 224.**

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## ACT 225

An Act to Provide for the Creation of a Charter Commission for the City and County of Honolulu, the Formulation of a New Charter for the City and County by such Commission, the Submission of Portions thereof to the Electorate of the City and County for Approval, the Forwarding of the Charter to the Territorial Legislature for Enactment, and to Provide for the Payment of the Expenses of such Charter Commission.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The city and county of Honolulu is hereby authorized to create a charter commission in the manner and for the purposes hereinafter provided. The commission shall consist of nine members who shall be appointed by the mayor of the city and county of Honolulu with the approval of the board of supervisors, one of whom shall be designated by the mayor

as chairman, and not more than five of whom shall be of the same political party. Any vacancy in the membership of such commission shall be filled by the mayor with the approval of the board of supervisors.

Each commission member shall be a registered voter of the city and county for at least three years prior to his appointment. No member shall forfeit any office or emolument thereof or be precluded from accepting any other office by reason of his appointment as a member of such commission.

The commission may make such rules for the conduct of its proceedings as it may deem necessary or appropriate.

SECTION 2. The board of supervisors shall furnish the commission suitable quarters for its meetings, the transaction of its business and the keeping of its records.

SECTION 3. The commission shall make a study and analysis of the existing governmental structure of the city and county of Honolulu for the purpose of securing such factual data as will enable it to draft, and the commission is hereby directed to draft a proposed new charter, adapted to the requirements of such city and county and designed to provide for the people of such city and county a more efficient, economical and representative form of government. Such charter shall set forth the structure of the city and county government, the manner in which it is to operate, and the powers of the city and county in respect to municipal and county affairs. The study of any subject relevant to the property, affairs or government of the city and county, or of the laws relating thereto, or of any matter or thing deemed by the commission to be pertinent thereto, and consistent with the purpose for which the commission was created, shall be deemed within the scope of the commission's work hereunder, **providing** however, that such study and analysis or charter shall not curtail any of the powers, duties and responsibilities conferred by the legislature on the board of water supply of the city and county of Honolulu.

SECTION 4. The commission shall submit such proposed charter when completed to the board of supervisors. The board of supervisors may, in its discretion, adopt and propose one or more sections as an alternative or alternatives to a part or parts of such proposed charter.

SECTION 5. The city and county clerk shall provide for the submission of the proposed charter with the alternative provisions which have been adopted and approved by the board of supervisors to the qualified electors of the city and county for approval at the next succeeding general election. The commission shall make provision for the publication, not less than forty-five days before any such election, of the proposed charter with the alternative provisions which have been approved and adopted by the board of supervisors, at least once in a newspaper of general circulation within the city and county of Honolulu. The general laws and rules governing elections, so far as the same are applicable and not inconsistent herewith, shall apply to the election herein referred to.

SECTION 6. Within thirty days after election, the city and county clerk shall certify a copy of the charter as modified by each provision as has been voted on and approved by a majority of those voting on such provision and forward the charter to the secretary of the Territory, who shall submit it to the legislature then in session (if not, to the next session thereof) for ratification. Upon such ratification, the charter shall become the organic

law of the city and county of Honolulu and shall supersede any existing charter and all laws affecting the organization and government of the city and county which are in conflict therewith. Notwithstanding the provisions of this Act or such ratification, there is expressly reserved the power of the territorial legislature to enact all laws of general application throughout the Territory on matters of territorial concern and interest, special laws relating to the fiscal powers of counties and cities and counties, and laws relating to the board of water supply of the city and county of Honolulu, and neither the charter nor ordinances adopted under the charter shall be in conflict therewith.

SECTION 7. The commission may hold public hearings at any place in the city and county and shall have the power to administer oaths, take testimony, issue subpoenas and compel the attendance of witnesses and the production of books and papers so far as may be necessary for the performance of its duties. The commission shall have access to the books, papers, records and documents of each and every office, board, bureau, body, department, division, authority, district or other agency of the city and county in connection with the performance of its duties. The commission shall receive such assistance from any city and county officer or employee, without extra compensation, as it may request to carry out its functions. The commission, with the approval of the board of supervisors, shall have power to appoint staff members and experts as it shall deem necessary and to fix the compensation for such members and experts.

SECTION 8. The members of the commission shall receive no compensation but shall be entitled to be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties hereunder.

SECTION 9. The terms of office of the members of the commission shall expire on the day of the election at which the proposed charter is submitted to the qualified electors of the city and county for approval.

SECTION 10. In the event the proposed charter fails to become the organic law of the city and county, a succeeding charter commission shall be appointed by the mayor in the manner prescribed in section 1. Such charter commission shall have all duties and powers described in this Act.

SECTION 11. The board of supervisors is hereby authorized, empowered and directed to appropriate and make available to the commission moneys sufficient to defray the expenses of the commission in the performance of its duties under this Act. Such moneys shall be disbursed by warrants issued by the city and county auditor on vouchers signed by the chairman or acting chairman of the commission and approved by the controller.

SECTION 12. If any clause, sentence, paragraph, section or part of this Act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 13. This Act shall take effect upon its approval.

(Approved June 7, 1955.) **H.B. 1016, Act 225.**

**ACT 226**

An Act Authorizing the Board of Supervisors of the City and County of Honolulu to Appropriate \$385.45 for Payment to Raymond Ho.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any other law to the contrary notwithstanding, the board of supervisors of the city and county of Honolulu is hereby authorized to appropriate the sum of \$385.45, the same to be paid to Raymond Ho to compensate him for services rendered in the clerk's office of the city and county, from January 18, 1955 to March 15, 1955.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1955.) H.B. 1189, Act 226.

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**ACT 227**

An Act to Authorize the Imposition of Illumination Control.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. In performing his duties under this Act, the governor is authorized to cooperate with the Federal Government, with other states, and with private agencies in all matters pertaining to the civil defense of this Territory and of the nation.

SECTION 2. In cooperating with the President, the secretaries of the military departments, the federal civil defense administrator, and other appropriate federal officers and agencies, the governor is authorized to impose, direct and control the imposition of measures of illumination control, and blackouts and tests, practices or drills thereof, including but not limited to warnings and signals and the mechanical devices to be used therewith, and the effective screening, dimming or extinguishing of lights and lighting devices and appliances.

SECTION 3. The governor is authorized to delegate any of the authority vested in him under this Act, and to provide for the subdelegation of any such authority.

SECTION 4. The governor is authorized to make and enforce such rules and regulations to effectuate this Act as may be necessary and proper.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1955.) H.B. 1247, Act 227.

**ACT 228**

An Act Amending Act 225 of the Session Laws of Hawaii 1949, as Amended, Relating to Aid for Disabled Veterans.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1 of Act 225 of the Session Laws of Hawaii 1949, as amended, is hereby further amended by deleting the fifth to eighth lines of such section 1 and inserting in lieu thereof the following:

"chair living for disabled veterans who were bona fide residents of the Territory of Hawaii before entering upon active service with the armed forces and who qualify for a federal grant under, or were bona fide residents of the Territory of Hawaii for five or more consecutive years prior to being declared eligible for a federal grant under, the provisions of Public Law 702, 80th Congress, as amended by Public Law 286, 81st Congress, or any future amendments made thereto. In no event will".

SECTION 2. There is hereby appropriated out of the general revenues of the Territory not otherwise appropriated the sum of \$40,000 or so much thereof as is necessary to be expended for the purposes of Act 225 of the Session Laws of Hawaii 1949, as amended. Such appropriation shall be in addition to any other appropriation made for the purposes of such Act 225.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1955.) H.B. 763, Act 228.

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**ACT 229**

An Act to Amend Chapter 37 of the Revised Laws of Hawaii 1945, as Amended, Relating to Chiropractic Practice.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 37 of the Revised Laws of Hawaii 1945, as amended, is further amended in the following respects:

(a) By amending section 2071 thereof to read as follows:

"Sec. 2071. License to practice. It shall be unlawful for any person to practice chiropractic without a license so to do. Any person wishing to obtain a license to practice chiropractic shall make application to the board of chiropractic examiners 30 days prior to the examination dates upon such form and in such manner as may be provided by the board. Each application shall be accompanied by an examination fee of \$25 and such documents and affidavits prescribed by law. Each application shall be made in accordance with the rules of the board of chiropractic examiners and shall be signed and verified under oath by the applicant, and in addition thereto each applicant shall furnish to the board of examiners:

(1) satisfactory proof that he is a citizen of the United States;

(2) satisfactory proof that he has been a resident of the Territory for at least one year;

(3) affidavits of good moral character;

(4) an unretouched, unmounted, 3" x 4" bust size photograph taken within 60 days next preceding the date of the application;

(5) an 8" x 10" photostatic copy of his diploma from a high school or, proof satisfactory to the board, of education equivalent in training power to a high school course;

(6) an 8" x 10" photostatic copy of his diploma from a chiropractic college or school;

(7) after March 1, 1958, satisfactory proof that he has completed 2 years of liberal arts and/or science study at a university or college; **provided** that the foregoing requirement shall not be applicable to applicants having entered an approved chiropractic college on or before October 31, 1955.

Except in the cases herein otherwise prescribed, each applicant shall be a graduate of an incorporated chiropractic school or college recognized and approved by the board, which teaches a course of not less than 4,200, 50-minute hours, of which 600 hours shall have been spent in practical work in a chiropractic college clinic under recognized instructors.

The course shall extend over a period of 4 school terms of at least 9 months each, and each applicant must give satisfactory proof of having attended not less than 90 per cent of said 4,200 hours and of having satisfactorily passed the following subjects: anatomy and histology, physiology, bacteriology, hygiene and sanitation, pathology, chiropractic diagnosis or analysis, chiropractic orthopedy, gynecology and obstetrics, symptomatology, chemistry and elementary toxicology, chiropractic analysis and the principles and practice of chiropractic, and technique."

(b) By amending the first paragraph of section 2076 thereof to read as follows:

**"Sec. 2076. Examinations.** The board shall meet as a board of examiners for the purpose of conducting examinations on the first Tuesday following the second Monday of April and October of each year, and the board shall meet otherwise regularly on the Thursday nearest the 15th day of March, May, September and November, and at such other times and places as may be found necessary for the performance of its duties. The office of the board shall be in Honolulu."

(c) By amending subsection (c) of **section 2079** thereof to read as follows:

"(c). Licenses suspended or revoked by the board of health under this chapter, shall not be restored except with the written approval of the board of chiropractic examiners. At any time following the suspension or revocation of a license, the board of health may upon the recommendation of the board of chiropractic examiners restore said license with all its original rights and privileges. Any person to whom such rights have been restored shall pay to the secretary the sum of \$25 upon the issuance of a new license."

(d) By inserting therein the following sections to be appropriately numbered:

**"Sec. [2076.01.] Time and place of examination.** The board of

examiners shall give public notice of the time and place of all examinations to be held under this chapter. Such notice shall be given in such manner as the board may deem expedient and in ample time to allow all candidates to comply with the provisions of this chapter.

**Sec. [2077.01.] Annual registration; fees; failure to register.** Every person holding a license to practice chiropractic in the Territory shall re-register with the secretary-treasurer of the board of examiners, on or before January 31 of each year and shall pay a re-registration fee of \$3. The secretary of the board shall, on or before December 31 of each year mail to the last known address of all licensed chiropractors a notice thereof.

The failure, neglect or refusal of any person holding a license to practice chiropractic to re-register and/or to pay the re-registration fee of \$3 shall, after 30 days of delinquency, constitute a forfeiture of his license; provided, that the license shall be restored upon written application therefor together with a payment of all delinquent fees and \$25, if such application and payments are made within a period of one year from the date of the inception of such delinquency. In the event, however, such delinquency is permitted to continue over a period of one year, in addition to the foregoing requirements, such person shall submit to and successfully pass a reexamination, written or oral, conducted by the board at its regular meeting.

**Sec. [2081.01.] Display of license and re-registration certificate.** Every holder of a license shall display his license in a conspicuous place in his principal place of business or place of employment. Every re-registration certificate shall be displayed in connection with the original license.

**Sec. [2081.02.] Filing of address.** Every holder of a license shall file his proper and current mailing address and his business or residence address with the board and shall notify the secretary of any and all changes thereto.

**Sec. [2081.03.] Change of residence.** Every holder of a license who leaves to reside outside of the Territory, shall immediately notify the secretary of the board of the change in writing and such change shall be noted in the secretary's registry book. Failure to do so shall constitute a violation and shall work a forfeiture of his license, and it shall not be restored except upon the written application therefor and a payment to the board of a penalty of \$25.

**Sec. [2080.01.] Record of licenses.** The secretary shall keep in his office an up-to-date record of all licenses issued, as follows: the name, age, nativity, location, number of years of practice of the person to whom license is issued to practice chiropractic, the number of the certificate and the date of registration thereof."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 7, 1955.) **H.B. 1151, Act 229.**

**ACT 230**

An Act to Abolish the Special Fund Created by Act 201 of the Session Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 201 (Series A-62) of the Session Laws of Hawaii 1945 is hereby repealed, and the special fund created under section 1 of said Act, being section 4013.01 of the Revised Laws of Hawaii 1945, is hereby abolished.

The unencumbered balance in the special fund known as "Structures and Permanent Improvements to Land", as of the effective date of this Act, shall lapse into the general fund of the Territory.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1955.) **S.B. 719, Act 230.**

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**ACT 231**

An Act to Amend Chapter 32 of the Revised Laws of Hawaii 1945, as Amended, and Repealing Act 219 of the Session Laws of Hawaii 1949 Relating to Vocational Rehabilitation of Disabled Persons.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 219 of the Session Laws of Hawaii 1949 is hereby repealed.

SECTION 2. Chapter 32 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting therein the following Act to be entitled "The Vocational Rehabilitation Act of Hawaii":

"Sec. [1894.01.] **Territorial vocational rehabilitation; Policy and scope.** It is hereby declared to be the policy of this Territory to provide rehabilitation services to the extent needed and feasible, to eligible handicapped individuals throughout the Territory, to the end that they may engage in useful and remunerative occupations to the extent of their capabilities, thereby increasing their social and economic well-being and that of their families, and the productive capacity of this Territory and of the Nation, and also thereby reducing the burden of depending on families and taxpayers.

Pursuant to such policy, the vocational rehabilitation services shall be provided hereunder to residents throughout the Territory, and the vocational rehabilitation plan, prepared in conformance with the federal 'Vocational Rehabilitation Act' and the 'Vocational Rehabilitation Amendments of 1954' and adopted pursuant to this Act, shall be in effect in all political subdivisions of the Territory.

Sec. [1894.02.] **Definitions.** For the purposes of this Act—

- (a) The term 'handicapped individual' means an individual who is under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a



nature that appropriate vocational rehabilitation services may reasonably be expected to render him able to engage in a remunerative occupation.

- (b) The term 'remunerative occupation' includes employment as an employee or self-employed, practice of a profession, home-making or farm and family work for which payment is in kind rather than cash, sheltered employment and home industry or other homebound work of a remunerative nature.
- (c) The term 'eligible handicapped individual', when used with respect to diagnostic and related services, training, guidance and placement, means any handicapped person who declares the Territory as his residence and whose vocational rehabilitation is determined feasible by the division of vocational rehabilitation, and when used with respect to other vocational rehabilitation services, means an individual meeting the above requirements who is also found by the division to require financial assistance with respect thereto, after full consideration of his eligibility for any similar benefit by the way of pension, compensation and insurance.
- (d) The term 'vocational rehabilitation services' means—
  - (1) Diagnostic and related services (including transportation) incidental to the determination of whether an individual is a handicapped individual, and if so, his eligibility for, and the nature and scope of other vocational rehabilitation services to be provided; and
  - (2) The following services provided eligible handicapped individuals needing such services:
    - (A) Training;
    - (B) Guidance;
    - (C) Placement;
    - (D) Maintenance, not exceeding the estimated costs of subsistence during vocational rehabilitation;
    - (E) Occupational licenses, tools, equipment, initial stocks and supplies (including equipment and initial stocks and supplies for vending stands), books, and training materials;
    - (F) Transportation (other than provided as diagnostic and related services);
    - (G) Physical restoration.
- (e) The term 'physical restoration' includes—
  - (1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial handicap to employment, but is of such a nature that such correction or modification may reasonably be expected to eliminate or substantially reduce such handicap within a reasonable length of time; and includes psychiatric treatment, dentistry, physical therapy, occupational therapy, speech or hearing therapy, treatment of medical complications and emergencies which are associated with or arise out of physical restoration services

- or are inherent in the condition under treatment, and other medical services related to rehabilitation;
- (2) Necessary hospitalization (either in-patient or out-patient), nursing or rest home care, in connection with surgery or treatment specified in the preceding paragraph (1);
- (3) Prosthetic devices essential to obtaining or retaining employment.
- (f) The term 'prosthetic appliance' means any appliance designed to support or take the place of a part of the body, or to increase the acuity of a sensory organ.
- (g) The term 'maintenance' means the provision of money to cover a handicapped individual's necessary living expenses and health maintenance essential to achieving his vocational rehabilitation.
- (h) The term 'vocational rehabilitation' means making an individual able, or increasing his ability to engage in a remunerative occupation through providing him needed vocational rehabilitation services.
- (i) The term 'rehabilitation facility' means a facility operated for the primary purpose of assisting in the rehabilitation of physically handicapped individuals—
  - (1) Which provides one or more of the following types of services:
    - (A) Testing, fitting, or training in the use of prosthetic devices;
    - (B) Prevocational or conditioning therapy;
    - (C) Physical or occupational therapy;
    - (D) Adjustment training; or
    - (E) Evaluation or control of special disabilities; or
  - (2) Through which is provided an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision.
- (j) The term 'workshop' means a place where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals who cannot be readily absorbed in the competitive labor market.
- (k) The term 'nonprofit', when used with respect to a rehabilitation facility or a workshop, means a rehabilitation facility and a workshop, respectively, owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 101 (6) of the Internal Revenue Code.
- (l) Establishment of a workshop or rehabilitation facility means—
  - (1) In the case of a workshop, the expansion, remodeling, or alteration of existing buildings, necessary to adapt such buildings to workshop purposes or to increase the employment opportunities in workshops, and the acquisition of initial equipment necessary for new workshops or to increase the employment opportunities in workshops; and

- (2) In the case of a rehabilitation facility, the expansion, re-modeling, or alteration of existing buildings, and initial equipment of such buildings, necessary to adapt such buildings to rehabilitation facility purposes (subject, however, to such limitations as the secretary may by regulations prescribe in order to prevent impairment of the objectives of, or duplication of, other federal laws providing federal assistance to states in the construction of such facilities), and initial staffing thereof.
- (m) 'Territorial Board' means the commissioners of public instruction in its capacity as the territorial board for vocational education.
- (n) 'Division' means the division of vocational rehabilitation.
- (o) 'Director' means the director of the division.

**Sec. [1894.03.] Establishment and functions of the division of vocational rehabilitation and the office of director—**

- (a) The division of vocational rehabilitation, hereinafter called the division, and the office of director of rehabilitation, the incumbent of which is hereinafter called the director, are hereby established. The director shall be appointed, in accordance with established personnel standards, on the basis of his training, experience and demonstrated ability in the field of vocational rehabilitation, or related fields, with the approval of the territorial board, and shall be the head of the division and subject only to the supervision and direction of the territorial board.
- (b) Except as may be otherwise provided with respect to the blind, the division shall be the sole territorial agency to supervise and administer vocational rehabilitation services authorized by this Act under the territorial plan formulated in conformance with the federal 'Vocational Rehabilitation Act' and the 'Vocational Rehabilitation Amendments of 1954' and administered pursuant to this Act, except such part or parts thereof as may be administered in a political subdivision or subdivisions of this Territory by a sole local agency of the subdivision, and the division shall be the sole agency to supervise such local agency or agencies in the administration of such part or parts.
- (c) The director shall prepare, conformable to the provisions of this Act, the proposed regulations and a proposed territorial plan of vocational rehabilitation, and from time to time prepare such proposed changes as shall appear to be necessary or desirable. Upon approval thereof by the territorial board, such approved proposals shall constitute the territorial plan and territorial regulations.

**Sec. [1894.04.] Scope of and financing program.**

- (a) All rehabilitation services, as herein defined, may be provided hereunder to eligible handicapped individuals, and in any event, such services shall include training, maintenance, placement, guidance and physical restoration services.
- (b) Within such limits and under such conditions as may be specified in appropriations therefor, the territorial board may

establish public and other non-profit rehabilitation facilities and workshops.

- (c) Territorial appropriations and donations for vocational rehabilitation shall likewise be available for the purpose, whenever federal funds are made available to the Territory under section 3 of the federal Vocational Rehabilitation Amendments of 1954, or subsequent amendments thereto, for initiating projects for the extension and improvement of vocational rehabilitation services, or under section 4 of such Act or subsequent amendments thereto, for projects for research, demonstrations, training and traineeships, and for planning for and initiating expansion of vocational rehabilitation services under the territorial plan.
- (d) The legislature shall appropriate for vocational rehabilitation such sums as are necessary, along with available federal and other funds, to carry out the purposes of this Act. The acceptance of such federal and other funds, and their use for vocational rehabilitation, subject to such restrictions as may be imposed by the donor and are not inconsistent with this Act, is hereby authorized.

**Sec. [1894.05.] Federal employees.** Rehabilitation services provided under the territorial plan shall be available to any civil employee of the United States disabled while in the performance of his duty, on the same terms and conditions as apply to other persons.

**Sec. [1894.06.] Administrative personnel and administration.**

- (a) The territorial board is hereby authorized to adopt and promulgate regulations with respect to methods of administration, use of medical and other records of individuals who have been provided vocational rehabilitation services, and the establishment and maintenance of personnel standards, including provisions relating to the tenure, appointment and qualification of personnel, which shall govern with respect to such matters notwithstanding any other law.
- (b) The territorial board is also authorized and directed to adopt and promulgate regulations respecting (1) the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, and (2) the order to be followed in selecting those to whom vocational rehabilitation services are to be provided in situations where such services cannot be provided all eligible physically handicapped people.
- (c) The territorial board is also authorized to promulgate regulations with regard to the use of professional personnel of the division in cooperation with the federal government for the purpose of surveying needs and implementing rehabilitation services in any of the federal government's political subdivisions or trust territories, when such actions or services involve no cost to the Territory.

**Sec. [1894.07.] Cooperative arrangements, etc.** Pursuant to the

general policies of the territorial board, the director and the division are authorized—

- (a) To cooperate with and utilize the services of the territorial agency administering the public assistance program, the federal bureau of old-age and survivors insurance (department of health, education, and welfare), and other federal, territorial, city and county, and local public agencies providing services relating to vocational rehabilitation, and with the territorial system of public employment offices in the Territory, and shall make maximum feasible utilization of the job placement and employment counselling services and other services and facilities of such offices.
- (b) To cooperate with political subdivisions, other public and nonprofit organizations and agencies, in their establishment of workshops and rehabilitation facilities, and to the extent feasible in providing vocational rehabilitation services, shall utilize all such facilities meeting the standards established by the board.
- (c) To enter into contractual arrangements with the federal bureau of old-age and survivors insurance (federal department of health, education, and welfare) with respect to certifications of disability and performance of other services, and with other authorized public agencies for performance of services related to vocational rehabilitation, for such agencies.
- (d) To contract with schools, hospitals, and other agencies, and with doctors, nurses, technicians and other persons, for training, physical restoration, transportation, and other vocational rehabilitation services."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1955.) H.B. 1283, Act 231.

## ACT 232

An Act Amending Section 10685 of the Revised Laws of Hawaii 1945, to Provide That the Fees for Counsel Assigned by Court Shall Be a Minimum of \$250 but Shall Not Exceed \$750 in Cases Where Penalty May Be Death, Imprisonment for Life or More Than Twenty Years, and Shall Be a Minimum of \$100 but Shall Not Exceed \$250 in All Other Cases.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 10685 of the Revised Laws of Hawaii 1945, is hereby amended by deleting the words "not exceed two hundred dollars" in the sixth line of said section and substituting in place thereof the words "be a minimum of two hundred and fifty dollars but shall not exceed seven hundred and fifty dollars", and by deleting the words "not exceed one hundred dollars", in the ninth line of said section and substituting in place thereof the words "be a minimum of one hundred dollars but shall not exceed two hundred and fifty dollars".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 8, 1955.) H.B. 511, Act 232.

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### ACT 233

An Act to Amend Sections 7044 and 7048 of the Revised Laws of Hawaii 1945, Relating to Collection Agencies.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7044 of the Revised Laws of Hawaii 1945, is hereby amended as follows:

(a) By adding a new paragraph after the first paragraph to read as follows:

"The treasurer shall not issue a license to any person, partnership or corporation where one of the partners or officers of the corporation has been convicted of the crime of embezzlement or any felony involving fraud or moral turpitude unless pardoned or able to satisfy the treasurer of his good conduct for a period of at least two years next preceding his application."

(b) By deleting the word "three" in line three of the second paragraph and inserting in lieu thereof the word "five".

(c) By deleting the word "one" in line four of the second paragraph and inserting in lieu thereof the word "three".

SECTION 2. Section 7048 of the Revised Laws of Hawaii 1945, is hereby amended as follows:

(a) By adding to the title of the section the words "Revocation and Suspension of License" after the word "Penalties".

(b) By adding a new paragraph to read as follows:

"The treasurer may revoke or suspend the license of any person, partnership or corporation upon sufficient proof that the licensee has violated the laws regulating collection agencies or has conducted himself fraudulently in the collection of a debt. Any person aggrieved by the treasurer's action may appeal to the circuit court."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 8, 1955.) S.B. 629, Act 233.

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### ACT 234

An Act Relating to Payments of Additional Compensation to the Judges of Certain Courts in the Territory and Amending Act 261 of the Session Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 3 of Act 261 of the Session Laws of Hawaii 1945, as amended by Act 72 of the Session Laws of Hawaii 1951, is hereby further amended to read as follows:

"Section 3. The treasurer of the Territory is hereby authorized and directed to pay to the chief justice and associate justices of the supreme court and to the several judges of the circuit courts of the Territory of Hawaii such sums per year as will, together with any annual compensation paid for their services as such officers by the United States, equal \$17,500 for the chief justice, \$17,000 for each of the associate justices and \$15,000 for each of the judges of the several circuit courts; **provided**, however, that the sums payable under this Act shall in no event exceed the sum of \$6,900 a year for the chief justice, the sum of \$6,750 a year for each of the associate justices, and the sum of \$5,825 for each of the judges of the several circuit courts. The foregoing compensation shall be payable monthly upon warrants which the auditor of the Territory is hereby authorized and directed to pay."

SECTION 2. This Act shall take effect on the first day of the first calendar month following the approval of this Act.

(Approved June 8, 1955.) S.B. 733, Act 234.

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### ACT 235

An Act Relating to County Licenses and the Fees Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7017 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 7017. **Control by ordinance.** Each board of supervisors shall have the power by ordinance:

(a) To require annual licenses, and impose annual license fees, for any business engaged in within the county, except as provided in paragraph (d).

(b) To increase, decrease, or waive effective upon the expiration of any existing license, the annual fee for a license issued under this chapter, except as provided in paragraph (d).

(c) To make such rules and regulations not inconsistent with law concerning the conduct of the business of all persons licensed under the provisions of this chapter, as may be deemed necessary for the public good.

(d) The powers conferred by paragraphs (a) and (b) shall not be exercised in respect of:

(1) Motor vehicle dealers, as defined by chapter 139.

(2) Licensees under chapter 137, relating to intoxicating liquor.

(3) Sellers of 'tobacco products', as defined by chapter 109.

(4) Sellers of 'liquid fuel' as defined by chapter 100.

(5) Banks, savings and loan or building and loan associations, public utilities, insurers and insurance agents.

(6) Boxing.

(7) Fishing."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 9, 1955.) S.B. 32, Act 235.

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ACT 236

An Act to Amend Chapter 81 of the Revised Laws of Hawaii 1945, as Amended, Relating to Farm Loans.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4671 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 4671. **Definitions.** Wherever used in this chapter: 'First mortgage' shall include such classes of first liens on farm lands and other authorized security as shall be approved by the farm loan board of Hawaii, and the credit instruments secured thereby. 'Practical farmer' shall mean any person of proven farming ability who derives the whole or a majority of his living from active management of, or participation in, farming in its broadest sense, including thereunder general farming, cane growing, fruit growing, flower growing, the production of livestock or poultry, and any other form of agricultural development. 'Farm land' shall mean land used for any agricultural purpose whatever, including general farming, cane growing, fruit growing, flower growing, grazing, dairying, the production of any form of livestock or poultry, and any other form of agricultural development."

SECTION 2. Section 4672 of the Revised Laws of Hawaii 1945 is hereby amended in the following respects:

(a) Amend the second sentence of the first paragraph to read as follows: "The board shall consist of five members to be appointed by the governor in accordance with the requirements of the Organic Act. The governor may appoint to the board an incumbent of an office of the Territory to serve ex-officio, but not more than two members shall be so appointed. Other members of the board shall hold office for three years, and until their successors are appointed and qualify; **provided** that at least one term of office shall expire each year. Vacancies shall be filled for the unexpired term."

(b) Delete the second sentence of the second paragraph.

(c) Amend the last sentence of the second paragraph to read as follows:

"The board is authorized and empowered to employ a secretary who shall devote his entire time to the business of the board or related business, and such other full-time or part-time employees as may be necessary to effectuate the purposes of this chapter, subject to the provisions of chapters 2 and 3 of the Revised Laws of Hawaii 1945, and subject to the limitation of funds in the farm loan reserve fund."

(d) In the fourth paragraph, delete the proviso and the sentence preceding such proviso and substitute the following:

"Such agents shall serve without additional pay, except where, in the opinion of the board, the duties required to be performed by



them are of such an extent as to justify such payment as the board in its discretion may fix."

SECTION 3. Item 1 of section 4675 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"1. Loans shall be secured by duly recorded first mortgages upon the following property within the Territory: (a) fee simple farm land; (b) leaseholds of farm land where the lease has an unexpired term or remainder of term of not less than twenty years. It also shall be lawful for the board to require and accept as security for any loan: (c) a mortgage over livestock; (d) a mortgage on growing crops; (e) a mortgage over chattels. The determination of the board as to the value of the security offered shall be final and conclusive."

SECTION 4. The paragraph relating to "Class B" loans in item 3 of section 4675 of the Revised Laws of Hawaii 1945, is hereby amended by changing the period to a comma at the end of the paragraph and adding immediately thereafter the words to read as follows:

"unless such loans are made for planting and cultivating of land used for crops requiring four or more years before first maturing, when the board may make loans for such long term crops not to exceed ten years, and the first payment of such long term loans shall not be due until five years from the date the obligation was incurred."

SECTION 5. Item 5 of section 4675 of the Revised Laws of Hawaii 1945, is hereby amended by deleting from the last proviso clause of the first paragraph thereof the words "and within the same district as in chapter 4 provided".

SECTION 6. Item 6 of section 4675 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"6. The amount of loans to any one borrower shall in no case exceed five thousand dollars, except for Class A loans or Class C loans for purposes defined in Class A, which loans shall not exceed twelve thousand dollars, nor shall any loans be for a less sum than one hundred dollars."

SECTION 7. Paragraph (a) of section 4680 of the Revised Laws of Hawaii 1945, is hereby amended by deleting the words "general fund of the Territory" at the end of said paragraph and substituting the words "farm loan revolving fund".

SECTION 8. Section 4683 of the Revised Laws of Hawaii 1945, is hereby repealed and all moneys heretofore advanced to the Territory from the farm loan revolving fund shall be redeposited no later than the effective date of this Act.

SECTION 9. This Act shall take effect upon its approval, except that the provisions as to the membership and terms of office of the farm loan board shall take effect July 1, 1955, and of the members first appointed, one shall be appointed for a term of one year and one for a term of two years.

(Approved June 10, 1955.) S.B. 700, Act 236.

## ACT 237

An Act Empowering the City and County of Honolulu to Require Sites for Schools, Parks or Playgrounds as a Condition Precedent to the Approval of New Subdivisions for Homesites, and Establishing Limitations there-to; Adding Sections 6645.01-6645.04 and a Caption to the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The following sections 6645.01, 6645.02, 6645.03 and 6645.04 and the following caption are hereby added to the Revised Laws of Hawaii 1945, to read as follows:

**"SITES FOR SCHOOLS, PARKS OR PLAYGROUNDS**

**Sec. 6645.01. Sites for schools, parks or playgrounds.** The city and county is hereby empowered to require as a condition precedent to the approval of new subdivisions of tracts for homesites that portions of such subdivisions shall be reserved and set aside as sites for schools, parks or playgrounds; **provided**, however, that the foregoing provisions shall not apply to the subdivisions involving ten (10) or less acres, unless such subdivisions be portions of any tract of land which, as of the effective date of this Act, is larger than ten (10) acres in area; and further **provided**, that not more than fifteen (15%) percent of the net area (after deducting areas for roads and rights of way) shall be required for such reservation.

**Sec. 6645.02. Sale of sites to city and county; compensation.** Prior to the approval of any such subdivision the subdivider, if required by the city and county, shall file an undertaking with it agreeing to accept as just compensation for such land thus set aside for public use a sum equal to the value of the land (raw or unimproved) immediately prior to the filing of the application for subdivision plus the proportionate share of the cost of improvements for streets, roads, sewers and utilities allocable to the land thus set aside. Nothing herein contained shall be construed so as to prevent any subdivider from granting such land for the purposes aforesaid to the city and county by way of donation or gift; and the city and county is hereby authorized and empowered to accept such donations and gifts when proffered.

**Sec. 6645.03. Condemnation proceedings.** Within 120 days from the filing of any such undertaking the city and county (unless such land is acquired by gift or purchase) shall institute condemnation proceedings for the acquisition of such real property and the compensation to be fixed by the court shall be based upon the valuation determined as provided in section 6645.02. Failure of the city and county to institute such proceedings within said date shall render the condition and agreement pursuant to sections 6645.01 and 6645.02 void.

**Sec. 6645.04. Ordinances.** Within the foregoing limitations, the board of supervisors of the city and county of Honolulu is hereby authorized and empowered to adopt the necessary ordinances in the exercise of the authority and powers herein granted."

## SECTION 2. This Act shall take effect upon its approval.

(Approved June 10, 1955.) S.B. 716, Act 237.

## ACT 238

An Act Relating to Real Property Taxes, Amending Sections 5116, 5141, 5154, 5167 and 5168 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5116, Revised Laws of Hawaii 1945 is hereby amended as follows:

(a) By inserting in the fourth line thereof after the words "registrar of conveyances" a comma and the following:

"or any other agency so requested by the tax commissioner,".

(b) By deleting from the fifth line thereof the words "monthly or quarterly, as" and inserting in lieu thereof:

"monthly, quarterly, or as otherwise".

(c) By inserting in the sixth line thereof following the words "title to" and the comma the following:

"or assessment of,".

(d) By inserting a comma at the end of the seventh line after the words "bureau of conveyances" and adding after the comma the following:

"executed, or filed, as the case may be,".

SECTION 2. Section 5141 of the Revised Laws of Hawaii 1945, as last amended by Act 151 of the Session Laws of 1951 is hereby further amended by deleting from the last sentence thereof the words "and other tenants" and the words "or other tenancy".

SECTION 3. Section 5154 of the Revised Laws of Hawaii 1945 as amended by Act 88 of the Session Laws of 1945 and Act 151 of the Session Laws of 1951 is hereby further amended as follows:

(1) By amending subsection 1, paragraph (b), by deleting therefrom the words "or other tenancy".

(2) By amending subsection 1, paragraph (c), by deleting therefrom the words "or other tenancy".

(3) By adding to subsection 1 four new paragraphs to read as follows:

"For the purposes of paragraphs (b) and (c) of this subsection: 'Lease' means any lease for a term of one year or more, or which is renewable for such period as to constitute a total term of one year or more. A lease having a stated term shall, if it otherwise comes within the meaning of the term 'lease' as defined, be deemed a lease notwithstanding any right of revocation, cancellation or termination reserved therein or provided for thereby. In any case of occupancy of a building or structure by two or more tenants, or by the government and a tenant, the tenancy shall not be deemed a lease, irrespective of the term thereof. Whenever a lease is such that the highest and best use cannot be made of the property by the lessee, the measure of the tax imposed on such property pursuant to paragraphs (b) and (c) shall be its fee simple value upon consideration of the highest and best use which can be made of the property by the lessee.

**Provided**, further, that real property belonging to the United States, even though not in the possession, use and control of the Territory, shall be taxed on the fee simple value thereof, and private persons shall pay the taxes thereon and shall be deemed the 'owners' thereof for the purposes of this chapter, in the following cases:

(d) Such property held on January 1 of any tax year under an agreement for the conveyance of the same by the government to private persons shall be deemed fully taxable, the same as if such conveyance had been made, but the assessment thereof shall not impair and shall be so made as to not impair, any right, title, lien or interest of the United States.

(e) Such property held under an agreement for the conveyance of the same or a conveyance of the same by the government, made after January 1 of any tax year, shall be assessed as omitted property as provided in section 5164, but the taxes thereon shall be prorated so as to require the payment of only so much of said taxes as is proportionate to the remainder of the tax year, and in the case of property held under an agreement for the conveyance of the same but not yet conveyed, the assessment thereof shall not impair, and shall be so made as to not impair, any right, title, lien or interest of the United States."

**SECTION 4.** Section 5167 of the Revised Laws of Hawaii 1945, as amended by Act 220 of the Session Laws of 1945 is hereby further amended by inserting, after the fourth paragraph thereof, a new paragraph to read as follows:

"The provisions of this section as to cotenancy shall apply, as well, in any case of ownership by more than one assessable person."

**SECTION 5.** Section 5168 of the Revised Laws of Hawaii 1945 as amended by Act 133 of the Session Laws of 1951, is hereby further amended by deleting from the last line of the first paragraph, following the comma, the words "one being on the land." and inserting in lieu thereof the following:

"and if the land is improved one of the three postings shall be on the land."

**SECTION 6.** Nothing in this Act shall be deemed to be an expression by the legislature as to the construction of any portion of chapter 94 of the Revised Laws of Hawaii 1945, as it read prior to the enactment of this Act, or as to the construction of any portion of any section of chapter 94 amended by this Act, in so far as such portion of a section has not been amended.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved June 10, 1955.) S.B. 565, Act 238.

## ACT 239

An Act Relating to Capital Punishment, Amending Sections 3958, 10602, 11031, 11394, 11678, 11758, 13013, and 10842, and Repealing Sections 10850 to 10861, Inclusive, of Chapter 233, of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 3958 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 3958. Prisoners paroled.** Any prisoner confined in any territorial prison in execution of any sentence imposed upon him, except in cases where the penalty of life imprisonment not subject to parole has been imposed, shall be subject to parole in manner and form as set forth in this subtitle."

SECTION 2. Section 10602 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 10602. Felony, misdemeanor; capital punishment prohibited.** The term 'felony,' as used in the laws of the Territory, means an offense that is punishable with imprisonment for life not subject to parole or for a longer period than one year. Every offense not a felony is a misdemeanor."

SECTION 3. Section 11031 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 11031. First degree; penalty.** Whoever wilfully and maliciously burns in the night time the dwelling house of another, in which there is at the time of the burning any occupant or inmate, is guilty of arson in the first degree, and shall be punished by imprisonment at hard labor for life not subject to parole, or at hard labor for life subject to parole."

SECTION 4. Section 11394 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 11394. Penalties.** Whoever is guilty of murder in the first degree shall be punished by death, or imprisoned at hard labor for life not subject to parole, at the discretion of the jury trying the same. Whoever is guilty of murder in the second degree shall be punished for a term not less than twenty years."

SECTION 5. Section 11678 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 11678. Rape; penalty.** Whoever commits a rape, that is, ravishes or has carnal intercourse with any female, by force and against her will, shall, upon conviction thereof, be imprisoned at hard labor for life not subject to parole, or at hard labor for life subject to parole, or any number of years."

SECTION 6. Section 11758 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

**"Sec. 11758. Wrecks.** Every person who unlawfully throws out a switch, removes a rail, or places any obstruction on any railroad with the intention of derailing any passenger, freight or other train, car or engine and thus derails the same, or who unlawfully places

any dynamite or other explosive material or any other obstruction upon or near the track of any railroad with the intention of blowing up or derailing any train, car, or engine and thus blows up or derails the same, or who unlawfully sets fire to any railroad bridge or trestle over which any train, car or engine must pass with the intention of wrecking the train, car or engine, and thus wrecks the same, is guilty of a felony and shall be punished by imprisonment at hard labor for life not subject to parole or at hard labor for life subject to parole."

SECTION 7. Section 13013 of the Revised Laws of Hawaii 1945, is hereby amended to read as follows:

"Sec. 13013. Spies. All persons who in time of war, rebellion or insurrection against the supreme authority of the Territory, shall be found lurking or acting as spies, in or about any of the fortifications, posts, quarters or encampments of any of the military forces of the Territory, or elsewhere, shall be triable by a general court-martial, or by a military commission, and shall, upon conviction thereof, be punished by imprisonment at hard labor for life not subject to parole or such other penalty as may be imposed by such court-martial or military commission."

SECTION 8. Sections 10850 to 10861, inclusive, of Chapter 233 of the Revised Laws of Hawaii 1945 are hereby repealed.

SECTION 9. Section 10842 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By amending the first paragraph to read:

"Sec. 10842. Indeterminate sentences; maximum. In all cases in which a person has been convicted of a felony, except in cases in which the penalty prescribed by law is imprisonment for life not subject to parole, the court in imposing sentence shall impose the maximum term of imprisonment prescribed by law for the crime for which he was convicted; and in all other cases in which the penalty prescribed by law may be imprisonment for life or any number of years, the court imposing the sentence shall fix the maximum term."

(b) By deleting the second proviso of the second paragraph.

SECTION 10. This Act shall take effect upon its approval.

(Approved June 10, 1955.) H.B. 339, Act 239.

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## ACT 240

An Act Relating to the Hawaiian Homes Commission, Amending Act 215 of the Session Laws of Hawaii 1947.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7 of Act 215 of the Session Laws of Hawaii 1947 (Series F-216) is hereby amended to read as follows:

"Section 7. The sum appropriated by section 1 hereof for the development of Hawaiian Homes Commission land at Anahola, Kauai, is hereby appropriated to the Hawaiian home-development

fund and shall be used for the construction, development and operation of a water and sewage system thereon, for the installation of electricity facilities and other utilities, for the construction of roads, and for all other expenses incidental to construction, survey, landscaping and engineering in connection with the development of combined agricultural residence lots by the Hawaiian Homes Commission, of approximately 401.423 acres of the Anahola lands on Kauai now under General Lease 2724.

The sum appropriated by section 1 shall become available on the effective date of the 1955 act amendatory of this section with respect to expenditures for water, sewage and electrical development, and shall become available immediately with respect to the other authorized expenditures."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 10, 1955.) H.B. 635, Act 240.

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### ACT 241

An Act Amending Chapter 181 Revised Laws of Hawaii 1945, as Amended, Relating to Trade Regulations: Unfair Practices Act.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 181 Revised Laws of Hawaii 1945, as amended, is hereby amended in the following respects:

(a) By amending section 9323 to read as follows:

"Sec. 9323. Sales at less than cost. No person, partnership, firm, corporation, joint stock company, or other association engaged in business within the Territory shall sell, offer for sale or advertise for sale any article or product, or service or output of a service trade, at less than the cost thereof to such vendor, or give, offer to give or advertise with the intent to give away any article or product, or service or output of a service trade, with the intent to destroy competition.

Definitions. The term 'cost' as applied to production is hereby defined as including the cost of raw materials, labor and all overhead expenses of the producers; and as applied to distribution 'cost' means and includes the invoice cost of the merchandise to a distributor or the replacement cost of the merchandise to a distributor, whichever is lower; less all trade discounts except customary discounts for cash; to which shall be added (1) freight charges not otherwise included in the invoice cost or the replacement cost of the merchandise as herein set forth, and (2) cartage to the distributor outlet if done or paid for by the distributor, and (3) a mark-up to cover a proportionate part of the cost of doing business, which mark-up, in the absence of proof of a lesser cost, shall be six (6) per cent of the cost to the distributor as herein set forth after adding thereto freight charges and cartage but before adding thereto a mark-up; provided, that in the case where a person, partnership, corporation or association is engaged in the business or makes sales both at retail and sales at wholesale,

such 'invoice cost' shall include all elements recognized by good accounting practice as proper elements of such cost.

The 'cost of doing business' or 'overhead expense' is defined as all costs of doing business incurred in the conduct of such business and must include without limitation the following items of expense: labor (including salaries of executive officers), rent, interest on borrowed capital, depreciation, selling cost, maintenance of equipment, delivery costs, credit losses, all types of licenses, taxes, insurance and advertising."

(b) Amend section 9325 of the Revised Laws of Hawaii 1945 by inserting a sentence after the first sentence thereof to read as follows:

"Where an injunction is sought for a violation of section 9323 the proof of the unlawful act or acts and of the injurious effects thereof shall be prima facie evidence of the intent to destroy competition; provided, however, that such a rule of evidence shall apply only to injunction proceedings brought under section 9323."

(c) By amending subparagraph (d) of section 9326 thereof to read as follows:

"In an endeavor made in good faith to meet the lawful prices of a competitor, as herein defined, selling the same article or product, or service or output of a service trade, in the same locality or trade area."

(d) By amending section 9327 to read as follows:

"Sec. 9327. Rebates, refunds, etc. The payment or allowance of rebates, refunds, commissions, or unearned discounts whether in the form of money or otherwise or extending to certain purchasers, special services, or privileges not extended to all purchasers purchasing upon like terms and conditions, to the injury of a competitor and where such payment or allowance tends to destroy competition, is an unfair practice and any person, firm, or corporation resorting to such trade practice shall be subject to injunction or suit for damages as provided in this chapter; provided, however, that this section shall not apply to dealings between a principal and agent under the terms of a bona fide agency contract, nor to sales by an employer to his bona fide employees of any articles which is part of the stock.

(e) By amending section 9328 by inserting after the comma in the second line thereof the following:

"each of such violations having been proved in a separate court action,"

(f) By amending the second paragraph of section 9330 to read as follows:

"Any defendant in an action brought under the provisions of this section may be compelled to testify by deposition under the provisions of chapter 197, or in person before the court in which such action is brought, and may be examined by the plaintiff or petitioner, as if on cross-examination, and the plaintiff or petitioner shall not be bound by his testimony; and in addition the books and records of any such defendant may be brought into court and introduced, by reference, into evidence."

(g) By deleting section 9331 in its entirety and renumbering sections 9332, 9333 and 9334 accordingly.



SECTION 2. This Act shall take effect on July 1, 1955.

(Approved June 10, 1955.) **H.B. 729, Act 241.**

### ACT 242

An Act Relating to Taxation, Amending Chapter 94, Revised Laws of Hawaii 1945, in Respect of Returns of Ranch Lands.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5155.01, Revised Laws of Hawaii 1945, enacted by Act 133 (Ser. A-108) of the Session Laws of 1951, is hereby amended as follows:

(a) By deleting all of the first sentence following the words "prescribed by the commissioner" in the seventh line of said section, and inserting in lieu thereof a comma and the following:

"a return setting forth a brief description and the location of such real property, together with the information relating to the assessment of such real property required by, and in the manner required by, such forms."

(b) By adding to said section a new paragraph to read as follows:

"Nothing in this section shall preclude the commissioner from requiring information, relating to the assessment of ranch lands, by other means authorized by law."

SECTION 2. This Act shall take effect on its approval.

(Approved June 10, 1955.) **S.B. 360, Act 242.**

### ACT 243

An Act to Amend Sections 6245 and 6577 of the Revised Laws of Hawaii 1945, Relating to the Compensation to be Paid to the Acting Chairman and Acting Mayor by the Counties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 6245 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto the following sentence:

"A member of the board while serving as chairman and executive officer pro tempore shall be compensated, in lieu of his rate of pay as a member of the board, at a rate of pay equal to that assigned to the chairman and executive officer, provided that during such period the chairman and executive officer is not entitled for any reason to receive his regular compensation."

SECTION 2. Section 6577 of the Revised Laws of Hawaii 1945 is hereby amended by adding thereto the following sentence:

"A member while acting as mayor shall be compensated, in lieu of his rate of pay as a member of the board, at a rate of pay equal

to that assigned to the mayor, **provided** that during such period the mayor is not entitled for any reason to receive his regular compensation "

SECTION 3. This Act shall take effect upon its approval.

(Approved June 10, 1955.) **H.B. 1204, Act 243.**

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### ACT 244

An Act Making an Appropriation to the Board of Commissioners of Agriculture and Forestry for the Anaplasmosis Testing Program, and Authorizing the Board to Pay Indemnities for Cattle Sent to Slaughter as Reactors to the Anaplasmosis Test, and Fixing the Amount of Indemnity, and Prescribing the Method of Appraisal.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of \$90,000, or so much thereof as may be necessary, is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, to the board of commissioners of agriculture and forestry for the conduct of the anaplasmosis testing program by the division of animal industry, and for the payments of indemnities to owners of cattle sent to slaughter as reactors to the anaplasmosis test for the biennium 1955-57.

SECTION 2. The board is hereby authorized to pay indemnities to owners of cattle sent to slaughter as reactors to the anaplasmosis test. The payment shall be in the amount of one-third of the difference between the appraised value of each animal slaughtered and the value of the salvage value thereof to owners of cattle reacting positively to the anaplasmosis test and sent to slaughter within thirty days of official notification in writing of such reaction; **provided**, however, that in no case shall this amount exceed one hundred dollars per animal; and **provided** further, that no indemnity shall paid for steers, spayed heifers, or unregistered bulls.

The territorial veterinarian, his assistant or deputy making the test for anaplasmosis is authorized, subject to approval of the board, to agree with the owner of any animal as to the valuation thereof. In case no agreement can be reached as to the valuation of any animal, the president of the board or his duly authorized agent shall choose some disinterested citizen, the owner another, and the two so chosen shall designate a third, the three to act as appraisers who shall appraise such animal and whose decision or the decision of a majority thereof shall be final. All appraisals of cattle under this section, whether by agreement or by the appraisers, shall be based upon the market value of the animal so condemned on the day of appraisal, whether for breeding purposes or for milk production. All appraisals shall be signed by the owner and the appraisers and shall be reported to the board. Compensation for appraisers shall be ten dollars per day and their necessary traveling expenses, which compensation shall be borne by the owner in case the appraisers fail to increase the valuation made by the territorial veterinarian, his assistant or deputy, with the approval of the board; otherwise the appraisers shall be paid by the board.

The amount of indemnification having been thus ascertained, the

owner may present to the territorial auditor a claim against the Territory therefor. A warrant for the payment of such claim shall be made upon vouchers approved by the president of the board and supported by the inspector's report; **provided** (a) that no indemnification shall be paid unless the owner has cooperated with the board in complying with all rules and regulations issued by the board relative to the control and eradication of anaplasmosis and has presented his whole herd for testing; and **provided** (b) that no indemnification shall be paid for any animal which shall have been placed in herds known to be infected at the time; and **provided** (c) that no indemnification shall be paid for any imported animal condemned on retest while in quarantine and before release from quarantine; and **provided** (d) that no indemnity shall be paid on any animal if introduced into a herd under supervision within a period of less than six months prior to condemnation, unless such animal was obtained from a herd under state and federal supervision for the eradication of anaplasmosis; and **provided** (e) that no indemnity shall be paid for any animal condemned for anaplasmosis in any herd under supervision where it appears that any untested animal has been allowed to mingle or mix with such herd; nor shall any indemnity be paid for any animal from any herd under supervision, if any animal or animals from such herd are allowed to mingle or come in contact with other cattle not under supervision, unless such cattle not under such supervision are proven by the anaplasmosis test to be free from anaplasmosis.

SECTION 4. The personnel presently employed by the board for the anaplasmosis program shall be retained under this Act so long as their services are satisfactory to the board.

SECTION 5. This Act shall take effect on July 1, 1955.

(Approved June 13, 1955.) S.B. 738, Act 244.

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## ACT 245

An Act to Amend Section 8731 of the Revised Laws of Hawaii 1945, Relating to Legal Rate of Interest Where There Is No Express Contract Fixing Such Rate.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 8731 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Sec. 8731. **Legal rate; computation.** When there is no express written contract fixing a different rate of interest, interest shall be allowed at the rate of six per centum per annum as follows: (a) for all moneys due on any bond, bill, promissory note, or other instrument of writing, or for money lent, after they become due; (b) for money due on the settlement of accounts, from the day on which the balance is ascertained; (c) for money received to the use of another, from the date of a demand made; and (d) for money upon an open account, after sixty days from the date of the last item or transaction."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 13, 1955.) H.B. 1175, Act 245.

## ACT 246

An Act Relating to Taxation, Amending Sections 5131, 5211, 5217, 5460 and Repealing Section 5480.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Subsection 2 of section 5131 of chapter 94, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"2. By distress upon so much of the taxpayer's goods, chattels, moneys, or intangibles represented by negotiable evidences of indebtedness, as he may deem sufficient to satisfy the payment of taxes due, penalties and interest if any, and the costs and expenses of such distress. In the case of moneys, distress shall be effected by seizure, and in other cases distress shall be effected by seizure and sale of the property. The tax collector shall take possession and keep the distrained property until the sale. After taking possession, he shall sell the taxpayer's interest in the property at public auction after first giving fifteen days' public notice of the time and place of the sale by publication at least once in a newspaper, published in the division, or by posting such notice in at least three public places in the district where the sale is to be held. The tax collector may require the assistance of any sheriff or authorized police officer of any county to aid in the seizure and sale of said distrained personal property. The tax collector may further retain the services of any person competent and qualified to aid in the sale of said distrained personal property, **provided**, that the consent of the delinquent taxpayer is obtained. Any sheriff or such person so retained by the tax collector shall be paid a fair and reasonable fee but in no case shall such fee exceed ten per cent of the gross proceeds of the sale. Any person other than a sheriff so retained by the collector to assist him may be required to furnish bond in an amount to be determined by the tax collector. Such fees and the cost of the bond shall constitute a part of the costs and expenses of the distress.

The sale shall take place within twenty days after seizure; **provided**, that by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for one week. Any further extension of the sale shall be with the consent of the delinquent taxpayer. The sale shall, in any event, be completed within forty-five days after seizure of the property. Sufficient property shall be sold to pay all taxes, penalties, interest, costs and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the tax collector shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the taxes, penalties, interest, costs and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited in the tax collector's office subject to the order of the owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner. If the owner of the property seized desires to retain or regain possession thereof, he may give a sufficient bond and surety to produce the property at the time and place of sale, or pay all taxes, penalties, interest, costs and expenses."

SECTION 2. Section 5211 of the Revised Laws of Hawaii 1945 is hereby amended by inserting in the third paragraph, after the words "board of review", the words "and may be amended at any time".

SECTION 3. Section 5217, Revised Laws of Hawaii 1945, as amended by Act 92 of the Session Laws of 1945 is hereby further amended by changing the comma after the words "tax appeals" in the fifth line thereof to a period, deleting the remainder of the sentence, and inserting in lieu thereof the following:

"In all other cases the costs shall be five per centum of the amount of taxes in dispute but not more than \$100 in any one case. Costs shall not be less than \$5 in any case, whether a property tax appeal or other tax appeal."

SECTION 4. Section 5480, chapter 101, Revised Laws of Hawaii 1945, as amended, is hereby repealed.

SECTION 5. Section 5460 of chapter 101 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending clause (k) to read as follows:

"(k) the amounts of taxes on tobacco products imposed by chapter 109 on wholesalers or dealers holding licenses under said chapter, and the amounts of taxes on tobacco products collected from a wholesaler by another where such wholesaler makes separate charges for the amounts so collected from him and collects the same from those purchasing from him as provided by chapter 109;"

SECTION 6. This Act shall take effect upon its approval.

(Approved June 14, 1955.) S.B. 355, Act 246.

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## ACT 247

An Act Relating to Public Funds, Providing for Certain Transfers to and Deposits in the General Fund of the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Except as hereinafter provided, and notwithstanding any provision of any other law to the contrary, there shall be deducted from time to time by the treasurer, for the purpose of defraying the prorated estimate of central service expenses of government in relation to the special funds mentioned in section 2 of this Act, five percent of all receipts of each of the said special funds from which receipts no deduction of said five percent shall have been previously made, which deductions shall be transferred to the general fund of the Territory and become general realizations of the Territory. All officers of the Territory and other persons having power to allocate or disburse any such special funds are directed to cooperate with the treasurer in effecting such transfers.

SECTION 2. The special funds referred to in section 1 of this Act are the following:

Descriptions	Created by Revised Laws of Hawaii 1945
Territorial Prison Special Fund	S.3943
Kawailoa Girls' Home Special Fund	S.3861
Koolau Boys' Home Special Fund	S.3861
Armory Board Special Fund	S.13050, as amended
Public Utilities Commission Fund	S.4726, as amended
Board of Medical Examiners	S.2505
Board of Dental Examiners	S.2157, as amended
Board of Pharmacy	S.2909, as amended
Board for the Licensing of Nurses	S.2773, as amended
Board of Optometry	S.2806, as amended
Board of Dispensing Opticians	S.2831, Act 183, S.L.H. 1949
Board of Veterinary Examiners	S.3078, Act 280, S.L.H. 1949
Beauty Culture Board	S.2052, as amended
Board of Massage	S.2451.17, Act 192, S.L.H. 1947
Board of Barbers	S.2025.12, Act 194, S.L.H. 1947
Board of Registration of Embalmers, Undertakers and Funeral Directors	S.3055
Board of Registration of Professional Engineers, Architects and Surveyors	S.7608, as amended
Real Estate Commission	S.7740, as amended
Notaries Public Revolving Fund	S.7669, Act 30, S.L.H. 1953
Hawaii Board of Osteopathic Examiners	S.2855, Act 201, S.L.H. 1951
Hawaiian Birth Registration	S.12913
Highway Supplies and Equipment Account	S.4966
Farm Loan Reserve Fund	S.4681
Fish and Game Fund	S.1009
Forest Reserve Fund	S.1018
Marketing Inspection and Agricul- tural Control Fund	S.1311.10, Act 252, S.L.H. 1945
Cat and Dog Fund	S.1067
Shop Revolving Fund and Handicraft	S.4824
Territorial Parks Special Fund	S.1045, Act 185, S.L.H. 1949
Fair Commission of Hawaii	S.12933
Harbor Board Special Fund	S.4998, Act 112, S.L.H. 1945, as amended
Small Boat Harbor Maintenance Fund	S.5260, Act 239, S.L.H. 1951
Territorial Airport Fund	S.5260
Airport Revenue Fund	S.4915.07, Act 32, S.L.H. 1947
Territorial Hospital Revolving Fund	S.4044
Waimano Home Special Fund	S.4076

SECTION 3. Except as hereinafter provided, and notwithstanding any provision of any other law to the contrary, there shall be deducted from time to time by the treasurer for the purpose of defraying the prorated estimate of central service expenses of government in relation to the Harbor Board Special Fund created by section 4998, Revised Laws of Hawaii 1945, as amended, five percent of all receipts and deposits in said special fund after deducting therefrom any amounts pledged, charged or encumbered

for the payment of bonds or interest thereon during the current year, from which receipts or deposits no deduction of said five percent shall have been previously made, which deductions shall be transferred to the general fund of the Territory and become general realizations of the Territory. The board of harbor commissioners is directed to cooperate with the treasurer in effecting such transfers.

SECTION 4. There is hereby transferred from the territorial airport fund to the general fund of the Territory the sum of \$1,000,000, in reimbursement of the general fund for expenditures for airport purposes.

SECTION 5. Section 12728, Revised Laws of Hawaii 1945, as amended, is hereby further amended by deleting the following words appearing in the last paragraph of said section: "excepting those for photostating instruments for governmental agencies,".

SECTION 6. If the governor shall so direct, proceeds of sales of public lands in any county, received during the biennium July 1, 1955 to June 30, 1957, notwithstanding paragraph 1 of section 4520 of the Revised Laws of Hawaii 1945, as amended by Act 107 of the Session Laws of 1947, and notwithstanding section 8 of House Bill No. 758 of the Twenty-Eighth Legislature, Regular Session, shall be transferred to the general fund, save and except for such amounts of proceeds as represent the expenditures made from the land development revolving fund for the development and opening of the particular lands from which the proceeds are derived.

SECTION 7. If any transfer contemplated by this Act might, if effected, result in loss to the Territory or to any special fund affected, of any federal funds, or would be in violation of the Constitution or any law of the United States, the governor shall issue an executive order setting forth the facts and suspending the application of this Act to the special fund affected in whole or in part, or limiting the transfer, as shall be necessary to avoid such loss of federal funds or to avoid such unconstitutionality or violation; such transfer shall not be made except to the extent, if at all, which will not result in such loss of federal funds or violation.

SECTION 8. This Act shall take effect on July 1, 1955, and shall apply to all deposits and receipts thereafter deposited and received, except as otherwise provided.

(Approved June 14, 1955.) S.B. 374, Act 247.

## ACT 248

An Act to Amend Chapter 15 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Employees' Retirement System of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 704.03 of the Revised Laws of Hawaii 1945, as enacted by Act 110 of the Session Laws of Hawaii 1951, is hereby amended by amending the first sentence thereof to read as follows:

"Under such rules and regulations as the board may adopt, any legislator electing to become a member or any former legislator electing

to become a member, shall file, on a form approved by the board, a detailed statement of all service as a legislator rendered by him prior to July 1, 1951, for which he claims credit and which is not otherwise creditable to him under the provisions of this Act."

SECTION 2. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of \$50,000 or so much thereof as may be necessary, to carry out the purpose of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1955.) S.B. 457, Act 248.

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### ACT 249

An Act Relating to Highways, Authorizing the Issuance of \$50,000,000 in Highway Revenue Bonds, and Amending Section 5260 of the Revised Laws of Hawaii 1945.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 115 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by adding a new part thereto to be numbered Part V, and to read as follows:

**"PART V. HIGHWAY REVENUE BONDS.**

**Sec. 5961. Bond issue authorized.** In accordance with the authorization contained in Public Law Eighty-fourth Congress, First Session, there shall be issued and sold highway revenue bonds of the Territory in an amount not to exceed the sum of \$50,000,000. Whenever used hereinafter in this part, the term 'highway revenue bonds' means the bonds thus authorized by the Congress of the United States and issued under the provisions of this part.

**Sec. 5962. Resolutions of issuance.** The issuance, sale and retirement of highway revenue bonds shall be under the general control and supervision of the superintendent of public works, and bonds shall be issued and sold from time to time at such times and in such amounts as the superintendent may determine. Highway revenue bonds shall be issued in accordance with a resolution or resolutions adopted by the superintendent of public works directing the issuance thereof. Any such resolution or resolutions shall take effect immediately upon the filing thereof with the treasurer of the Territory. Whenever used in other sections of this part, the term 'resolution of issuance' shall mean such resolution or resolutions adopted by the superintendent pursuant to this section.

**Sec. 5963. Taxes pledged.**

(a) Highway revenue bonds shall be payable from the proceeds of highway vehicle fuel taxes. As used in this part, the term 'highway vehicle fuel taxes' means taxes in respect of the fuel used on, or to be used on the highways, but in the event the legislation providing for such tax levies the same in respect of other fuel and does not provide for the segregation of the taxes in respect of the fuel used on, or to be used on the highways, then the term 'highway vehicle fuel



taxes' includes as well all such taxes in respect of fuel as are commingled with the taxes in respect of the fuel used, or to be used on the highways.

To the extent required by any resolution of issuance, the proceeds of such taxes remaining in the territorial highway fund after the payments required by paragraph (1) of subsection (b) of section 5260 are hereby irrevocably pledged to the payment of any highway revenue bonds issued and of the interest thereon. This pledge shall take effect upon the first date of issuance of any such bonds and, so long as any such bonds are outstanding, shall continue to apply to the territorial highway fund or such other fund as may be constituted for the deposit of highway vehicle fuel taxes under the control of the superintendent of public works. The legislature hereby agrees to continue to impose such taxes on highway vehicle fuels in amounts at least sufficient to provide, as the resolution of issuance may require, for the payment of the principal of all highway revenue bonds and the interest thereon, as such principal and interest become due.

(b) A resolution of issuance shall provide for the establishment of such interest funds, bond reserve funds, sinking funds and other funds as the superintendent of public works may determine to be necessary or appropriate to provide for the payment, when due, of the principal of, and interest on, highway revenue bonds. From the proceeds of highway vehicle fuel taxes remaining after the payments required by subparagraph (1) of subsection (b) of section 5260, there shall be paid or transferred to such funds such amounts, within the limits hereinafter stated, as are required by the resolution of issuance. With respect to any serial bonds issued, a resolution of issuance may require that there be paid or transferred to such funds each year any amount therein designated not exceeding an amount sufficient to increase the balances of such funds to a total equal to the amount required for the payment of the principal of, and the interest on, serial bonds authorized by such resolution and then outstanding, which will become payable in the current year and in the next two succeeding calendar years. With respect to any term bonds issued, a resolution of issuance may require that there be paid or transferred to such funds each year any amount therein designated not exceeding the sum of (1) the interest on such term bonds then outstanding which will become payable in the current year and in the next succeeding calendar year, and (2) 125 per cent of the quotient obtained by dividing the aggregate principal amount of all such term bonds authorized by such resolution by the number of years of the term thereof. Nevertheless, no such resolution shall require that any amounts be paid or set aside from such proceeds at any time after there have been set aside amounts sufficient to pay the aggregate principal amount of all bonds outstanding and the total amount of interest on all such bonds that is or will become payable.

**Sec. 5964. Bonds not a general obligation of Territory.** Each highway revenue bond shall distinctly state that it is not a general obligation of the Territory, but is payable, in the manner provided in this part and in the resolution of issuance, from the proceeds of highway vehicle fuel taxes. No holder of any highway revenue bonds

shall ever have the right to compel any exercise of the taxing power of the Territory to pay the bonds or the interest thereon, except with respect to such highway vehicle fuel taxes.

**Sec. 5965. Form and terms of bonds.** Highway revenue bonds shall bear interest at such rate or rates not exceeding 6 per cent per annum, payable semi-annually, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 30 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution of issuance may provide, subject to the provisions of this part.

**Sec. 5966. Sale of bonds.** Highway revenue bonds may be sold at private sale to the United States, or any agency, instrumentality or corporation thereof, or to the employees' retirement system of the Territory of Hawaii, or to any political subdivision of the Territory. Unless so sold at private sale, the bonds shall be sold at public sale after notice of such sale published once, at least five days prior to such sale, in a newspaper circulating in the Territory and in a financial newspaper published in any of the cities of New York, Chicago or San Francisco.

**Sec. 5967. Negotiability of bonds.** Highway revenue bonds shall be fully negotiable within the meaning of and for all the purposes of chapter 173, the negotiable instruments law.

**Sec. 5968. Deposit and use of proceeds.**

(a) The proceeds from the sale of highway revenue bonds shall be deposited with the treasurer of the Territory in the territorial highway fund. Moneys from such funds shall be paid out by the treasurer upon the order of the superintendent of public works, who may expend them for the following purposes: (1) to pay interest due upon any such bonds during the first year after their date of issuance, if so authorized by the resolution of issuance; (2) for the design, construction, reconstruction, repair and maintenance of, and for engineering and acquisition of rights of way for, highways in the Territory upon which federal aid moneys are expendable or have been expended, pursuant to the provisions of chapter 89 and of the Federal Highway Act and legislation supplementary thereto; and (3) for expenses incurred for engraving, printing, advertising, legal services, financial consultant's services or otherwise with respect to the issuance of highway revenue bonds.

(b) Expenditures for the purposes hereinbefore stated in item (2) of subsection (a) of this section, other than expenditures for repair and maintenance, shall, as nearly as practicable and to the extent allowable under the Federal Highway Act and other federal legislation, be apportioned among the counties by the superintendent in such a manner that the expenditures for each county shall bear the same ratio to the total of such expenditures for the Territory as that county's estimated share of highway vehicle fuel tax collections bears to the total of such collections for the Territory. In determin-

ing each county's share of such collections for this purpose, there shall be credited to each county the amount of the collections made each year, for deposit in the territorial highway fund established by section 5260, with respect to fuel sold or used within such county, **provided**, that fuel intended for ultimate use in another county shall be credited to the county in which the fuel is to be so used. The tax commissioner shall estimate the amount of such collections for each county for the year, and shall certify such amounts to the superintendent and the treasurer on or before January 31 of each year. If the actual share of such collections of any county for the year, as determined at the close of the calendar year upon the basis of actual collections, exceeds or is less than such expenditures for such county for such year, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

(c) The validity of the highway revenue bonds shall not be affected by any requirement of subsection (b) of this section or by any failure to observe any such requirement.

**Sec. 5969. Superintendent of public works.** The legislature hereby agrees to continue in existence the office of the superintendent of public works, or an office or agency **succeeding to the powers and duties** of that office, in respect of highways, so long as any highway revenue bonds are outstanding. The legislature hereby further agrees that such office or agency shall retain the powers and duties set forth in this part so long as any of such bonds are outstanding. As used in this part, the term 'superintendent of public works' includes any such office or agency.

**Sec. 5970. Treasurer's duties.** It shall be the duty of the treasurer of the Territory, when requested by the superintendent of public works, to render full and complete assistance to the superintendent in the preparation and sale of highway revenue bonds. The treasurer shall be the fiscal agent of the Territory for the payment of all principal and interest, and for the transfer of bonds. Provisions for other fiscal agents and transfer agents, and for their powers and duties, may be made in the resolution of issuance.

The treasurer shall cause to be set up in the treasury of the Territory suitable accounts for the deposit of all funds established pursuant to this part, interest thereon, for all other payments provided or required pursuant to this part, and for the holding of all reserves created under this part.

**Sec. 5971. Investment of reserves.** The treasurer, with the approval of the superintendent of public works, is authorized and empowered to invest any money held as reserves pursuant to this part, which in the superintendent's judgment are in excess of the amounts necessary for the meeting of immediate requirements, in bonds or other obligations of the United States, or of the Territory of Hawaii, or of any political or municipal corporation or subdivision of the Territory. Income derived therefrom shall be added to the reserve fund thus invested; expenses of purchase, safekeeping, sale and redemption, and all other expenses attributable to such investments shall be charged to such fund.

**Sec. 5972. Lost and destroyed bonds and coupons.** The provi-

sions of sections 5909-5912, inclusive, relating to destroyed or defaced bonds, and to lost, destroyed or stolen coupons, to the extent that they are applicable, shall apply to highway revenue bonds.

**Sec. 5973. Bonds exempt from taxation.** Highway revenue bonds and the interest thereon shall be exempt from all territorial, county and municipal taxation except inheritance, transfer and estate taxes.

**Sec. 5974. Bonds legal investments.** All public officers and bodies of the Territory, all political subdivisions, all insurance companies and associations, all banks, savings banks and savings institutions, including building or savings and loan associations, all trust companies, all executors, administrators, guardians, trustees, and all other persons and fiduciaries in the Territory who are regulated by law as to the character of their investment, may legally invest funds within their control and available for investment in highway revenue bonds of the Territory, it being the purpose of this section to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any such funds owned or controlled by them, including (without prejudice to the generality of the foregoing), sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any highway revenue bonds of the Territory."

SECTION 2. Section 5260 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending paragraph (2) of subsection (b) thereof to read as follows:

"(2) The moneys remaining in the territorial highway fund after the payments required by paragraph (1) of this subsection shall be expendable by the superintendent of public works to pay the interest on highway revenue bonds issued pursuant to part V of chapter 115, as added by this Act, to pay the principal of such bonds as they mature, and to establish and augment funds reserved for the payment of such interest and principal, all in accordance with said part and with the resolutions by which such bonds are issued. Payments and transfers of such moneys for such purposes shall be made as and when required by said resolutions."

(b) By adding a new paragraph (3) to subsection (b) thereof to read as follows:

"(3) The moneys remaining in the territorial highway fund after the payments and transfers required by paragraphs (1) and (2) of this subsection shall be expendable by the territorial highway department for the design, construction, reconstruction, repair, and maintenance of, and for engineering and acquisition of rights of way for, highways in the Territory upon which federal moneys are expendable or have been expended, pursuant to the provisions of chapter 89, and the Federal Highway Act and legislation supplementary thereto; **provided**, that except with the approval of the attorney general no expenditure shall be made from said fund for legal services; **provided**, further, that the expenditures from such fund for new construction work, including acquisition of rights of way, shall be so apportioned to the counties by the territorial highway engineer that, as nearly as practicable and to the extent allowable under the Federal Highway

Act and other federal legislation, there shall be expended for each county the estimated amount of its share of the collections in said fund remaining after the deduction of charges for bonds and maintenance, such estimate to be made by the territorial highway engineer except as hereinafter stated, and to be computed on the following basis: There shall be credited to each county the amount of the collections made each year for deposit in said fund, for fuel sold or used within such county; **provided**, that fuel intended for ultimate use in another county shall be credited to the county in which the same is to be so used; **provided**, further, that the amount of the county of Hawaii extra tax shall be credited directly to the share of said county and shall be computed without any deduction from said amount for payments and transfers required by paragraphs (1) and (2) of this subsection or for repairs or maintenance. The tax commissioner shall estimate the amount of the said collections for each county for the year. There shall be charged against the total of such collections for the entire Territory for the year (except as hereinbefore provided) the amount of the bond requirements of the several counties for the year pursuant to paragraph (1) of this subsection, as determined by the respective county treasurers. The tax commissioner and the county treasurers shall certify such amounts to the territorial highway engineer and the territorial treasurer on or before January 31 of each year. There further shall be charged against the total of such collections for the entire Territory for the year (except as hereinbefore provided) the cost for the year of repairs and maintenance of federal aid highways, including the cost of equipment and general administrative overhead, and the moneys paid or set aside in funds reserved for the payment of interest and principal on territorial highway revenue bonds during the year, as required by paragraph (2) of this subsection. The balance remaining after the deduction of the foregoing charges for bonds and maintenance shall be divided among the several counties in proportion to their credits for collections (not including in the credit for Hawaii, for said purpose, the county of Hawaii extra tax), and the amount so determined for each county shall be deemed its share of the collections in said fund remaining after the deduction of charges for bonds and maintenance, **provided**, that there shall be additionally credited to the county of Hawaii's share the county of Hawaii extra tax. If the actual share of any county for the year, as determined at the close of the calendar year upon the basis of actual collections, repairs and maintenance, exceeds or is less than the expenditure for such county for such year for new construction, such excess shall be added or such deficiency deducted in determining the share of such county for the following year.

**Provided**, that there shall be expended from said moneys so remaining in the territorial highway fund for new construction in West Hawaii, and charged against the county of Hawaii's share of the collections, an amount at least equal to ten per cent of the principal of any territorial bonds issued on or after January 1, 1947 and prior to January 1, 1955 for new construction for the county of Hawaii; **provided**, further, that there shall be paid from the territorial high-

way fund and charged against the county of Hawaii's share of the collections, the same as if expended directly for new construction, the following requirements for territorial bonds issued on or after January 1, 1947 and prior to January 1, 1955 for new construction for the county of Hawaii, to wit: the interest on such bonds and the principal of all serial bonds maturing the following year, such payments to be made by the territorial treasurer, who shall certify the amount thereof to the territorial highway engineer, from time to time.

As used in this paragraph (3) the term 'new construction' includes the items enumerated in the first sentence hereof, except repairs and maintenance."

SECTION 3. The Congress of the United States is hereby respectfully requested (a) to amend section 1 of this Act by inserting, in section 5961 therein set forth, a reference to the enabling legislation requested by Senate Concurrent Resolution No. 31 of the Twenty-Eighth Legislature, and (b) to approve, ratify and confirm this Act as so amended.

SECTION 4. This Act shall take effect upon its approval by the Congress of the United States.

(Approved June 14, 1955.) S.B. 835, Act 249.

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## ACT 250

An Act Relating to Fuel Taxes, Amending Sections 5260, 5404 and 5409 of the Revised Laws of Hawaii 1945, as Amended, Adding to Chapter 100 of the Revised Laws of Hawaii 1945 a New Section 5404.01, Repealing Sections 5, 6 and 7 of Act 196 of the Session Laws of 1947, Section 1 of Act 373 of the Session Laws of 1949, Sections 3, 4 and 5 of Act 302 of the Session Laws of 1951, Sections 2, 3, 4 and 5 of Act 20 of the Session Laws of 1953, Section 2 of Act 197 of the Session Laws of 1953, and Section 2 of Act 198 of the Session Laws of 1953, and Providing How Fuel Taxes Shall Be Expended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5260 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By deleting from subsection (a) thereof the words: "except the 'city and county of Honolulu extra tax,' 'county of Kauai extra tax,' 'county of Maui extra tax,' 'county of Hawaii special tax,' 'county of Kauai special tax,' and 'county of Maui special tax,'" and inserting in lieu thereof the following:

"except the 'county of Hawaii fuel tax,' 'city and county of Honolulu fuel tax,' 'county of Maui fuel tax,' and 'county of Kauai fuel tax,'"

(b) By deleting from subsection (b) the words "county of Hawaii extra tax" wherever the same appear, and by inserting in lieu thereof the words "county of Hawaii extra territorial tax".

SECTION 2. Section 5404 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By amending paragraphs (3), (4), (5) and (6) of subsection (a) to read as follows:

"(3) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Hawaii, or in any county for ultimate use in the county of Hawaii, eight cents territorial tax, of which tax three-eighths, or three cents, shall be known as the 'county of Hawaii extra territorial tax', and in addition thereto such amount, to be known as the 'county of Hawaii fuel tax', as shall be levied pursuant to section 5404.01.

(4) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the city and county of Honolulu, or in any county for ultimate use in the city and county of Honolulu, five cents territorial tax, and in addition thereto such amount, to be known as the 'city and county of Honolulu fuel tax', as shall be levied pursuant to section 5404.01.

(5) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Maui, or in any county for ultimate use in the county of Maui, five cents territorial tax, and in addition thereto such amount, to be known as the 'county of Maui fuel tax', as shall be levied pursuant to section 5404.01.

(6) For each gallon of liquid fuel other than fuel mentioned in items (1) and (2), sold or used in the county of Kauai, or in any county for ultimate use in the county of Kauai, five cents territorial tax, and in addition thereto such amount, to be known as the 'county of Kauai fuel tax', as shall be levied pursuant to section 5404.01."

(b) By amending paragraphs (1), (2), (3) and (4) of subsection (b) to read as follows:

"(1) For each gallon of diesel oil so used upon the public highways in the county of Hawaii, seven cents territorial tax, of which tax three-sevenths, or three cents, shall be known as the 'county of Hawaii extra territorial tax', and in addition thereto such amount, to be known as the 'county of Hawaii fuel tax', as shall be levied pursuant to section 5404.01.

(2) For each gallon of diesel oil so used upon the public highways in the city and county of Honolulu, four cents territorial tax, and in addition thereto such amount, to be known as the 'city and county of Honolulu fuel tax', as shall be levied pursuant to section 5404.01.

(3) For each gallon of diesel oil so used upon the public highways in the county of Maui, four cents territorial tax, and in addition thereto such amount, to be known as the 'county of Maui fuel tax', as shall be levied pursuant to section 5404.01.

(4) For each gallon of diesel oil so used upon the public highways in the county of Kauai, four cents territorial tax, and in addition thereto such amount, to be known as the 'county of Kauai fuel tax', as shall be levied pursuant to section 5404.01."

SECTION 3. There is hereby added to chapter 100 of the Revised Laws of Hawaii 1945 a new section, to be numbered 5404.01 and to read as follows:

"Sec. 5404.01. County fuel tax. The amount of the 'county of Hawaii fuel tax', 'city and county of Honolulu fuel tax', 'county of

Maui fuel tax', and 'county of Kauai fuel tax', respectively, shall be determined by resolution of the board of supervisors of each said county adopted in the manner provided by law relating to resolutions involving the expenditure of public money. The amount fixed by the resolution may be, per gallon, one or more cents or a fraction of a cent or both, or it may be zero. No such resolution shall be adopted until the board of supervisors shall conduct a public hearing on the amount of tax proposed; notice of such hearing shall be published in a newspaper of general circulation within the county at least twice within a period of thirty days immediately preceding the date of hearing. If such resolution is adopted on or before the fifteenth day of a calendar month it shall take effect on the first day of the next month, otherwise on the first day of the second month, following the date of adoption of the resolution.

Until and unless otherwise provided by resolution adopted as above provided, the amount of the 'county of Hawaii fuel tax' shall be for the period July 1, 1955 to June 30, 1957 one cent per gallon and thereafter zero, the amount of the 'city and county of Honolulu fuel tax' shall be two and one-half cents per gallon, the amount of the 'county of Maui fuel tax' shall be for the period July 1, 1955 to June 30, 1957 three cents per gallon and thereafter two cents per gallon, and the amount of the 'county of Kauai fuel tax' shall be for the period July 1, 1955 to June 30, 1957 three cents per gallon and thereafter two cents per gallon."

SECTION 4. Section 5409 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended as follows:

(a) By deleting from clause (c) thereof the words "not subject to the four or six cents tax on such transaction," and by inserting in lieu thereof the following:

"not subject to the tax on such transaction, or only subject to tax thereon at the rate of one cent per gallon,"

(b) By deleting from clause (e) the words "not subject to the four or six cents tax on such transaction," and by inserting in lieu thereof the following:

"not subject to the tax on such transaction, or only subject to tax thereon at the rate of one cent per gallon,"

SECTION 5. There are hereby repealed:

(a) Sections 5, 6 and 7 of Act 196 of the Session Laws of 1947.

(b) Section 1 of Act 373 of the Session Laws of 1949.

(c) Sections 3, 4 and 5 of Act 302 of the Session Laws of 1951.

(d) Sections 2, 3, 4 and 5 of Act 20 of the Session Laws of 1953.

(e) Section 2 of Act 197 of the Session Laws of 1953.

(f) Section 2 of Act 198 of the Session Laws of 1953.

SECTION 6. The "city and county of Honolulu fuel tax", and "county of Kauai fuel tax" shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the respective county treasurers for deposit by each in a special fund to be known as the "fuel tax fund of the city and county of Honolulu" and the "fuel tax fund of the county of Kauai", respectively.

The "county of Hawaii fuel tax" shall be paid by the tax commissioner into the territorial treasury and shall, by the territorial treasurer, be paid



over to the treasurer of the county of Hawaii for deposit sixty-five per cent into a special fund to be known as the "fuel tax fund of the county of Hawaii, 1st representative district" and thirty-five per cent into a special fund to be known as the "fuel tax fund of the county of Hawaii, 2nd representative district".

The "county of Maui fuel tax" shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Maui for deposit into special funds as follows:

As to taxes collected on account of liquid fuel sold or used on the island of Lanai, or sold elsewhere for ultimate use on the island of Lanai, for deposit into the "fuel tax fund of the county of Maui, island of Lanai".

As to taxes collected on account of liquid fuel sold or used on the island of Molokai, or sold elsewhere for ultimate use on the island of Molokai, for deposit into the "fuel tax fund of the county of Maui, island of Molokai".

As to the remainder of the "county of Maui fuel tax" for deposit into the "principal fuel tax fund of the county of Maui".

Each of the aforesaid special funds shall be expended for the following purposes, for the island or representative district for which the special fund is constituted or if none then for the county for which the special fund is constituted:

(a) For payment of interest on and redemption of any bonds duly issued or sold on or after July 1, 1951 under the provisions of chapter 117 of the Revised Laws of Hawaii 1945, as amended, for the financing or aiding in financing the construction of highway tunnels, approach roads thereto and highways. Such payments of interest and principal on such bonds when due, shall be first charges on such moneys so deposited in said fund.

(b) For acquisition, designing, construction, reconstruction, improvement, repair, maintenance of, and the installation of modern street lighting on, main and general thoroughfares, highways and other streets, including storm drains and bridges, when said main and general thoroughfares, highways and other streets, including storm drains and bridges, cannot be improved under territorial-federal aid projects.

(c) In the case of the city and county of Honolulu, for payment of the city and county's share in an improvement district initiated by the city and county under the provisions of chapter 129 of said Revised Laws of Hawaii 1945, as amended, for an improvement listed in (b) above which is permitted to be constructed under said chapter 129.

(d) For the construction of highway tunnels, overpasses, underpasses and bridges, where such improvement cannot be made under territorial-federal aid projects.

(e) No expenditure shall be made, out of the revenues paid into any such special fund, which will jeopardize federal aid for highway construction.

**SECTION 7.** This Act shall take effect on July 1, 1955, except that section 5 shall not take effect as to any funds which on July 1, 1955 are already encumbered.

All extra and special fuel taxes paid before July 1, 1955, or then or thereafter payable, to the county treasurers under the laws repealed by

section 5 of this Act as they read prior to such repeal, to the extent not encumbered before July 1, 1955, shall by the county treasurers be transferred into, or when received paid into, the appropriate special fund constituted by section 6 of this Act and expended as provided by section 6.

All amounts of tax collected under section 5404 of the Revised Laws of Hawaii 1945, as it read prior to the amendments made by this Act, and which would have been paid into the territorial highway fund had this Act not been enacted, shall be paid into the territorial highway fund and expended as provided by section 5260 of the Revised Laws of Hawaii 1945 as it read prior to the amendments made by this Act.

This Act shall not be construed as affecting in any manner, to the detriment of the Territory or any county, any taxes, interest, fines, penalties, forfeitures or other liabilities, or obligations, existing, due or incurred prior to the taking effect of this Act, nor as affecting the liability of any person to prosecution for any offense committed prior to the taking effect of this Act under any statute hereby amended, repealed or superseded; all such taxes, interest, fines, penalties, forfeitures, liabilities, obligations, misdemeanors and other offenses may be assessed, enforced, collected, prosecuted or punished, as the case may be, in the same manner, to the same extent and subject to the same conditions as if this Act had not been enacted.

(Approved June 14, 1955.) S.B. 838, Act 250.

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### ACT 251

An Act Amending Act 153, Session Laws of Hawaii 1949, as Amended by Act 108, Session Laws of Hawaii 1951, Relating to Public Off-Street Parking Facilities for the City and County of Honolulu and the Financing Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 153 (Series B-169) of the Session Laws of Hawaii 1949, as amended by Act 108 (Series B-155) of the Session Laws of Hawaii 1951, is hereby further amended by deleting the words and figures "one million five hundred thousand dollars (\$1,500,000)" in the eighth and ninth lines of section 1 of Act 153 of the Session Laws of 1949 and substituting the words and figures "six million dollars (\$6,000,000)".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 14, 1955.) S.B. 849, Act 251.

### ACT 252

An Act Amending Section 7086 and Repealing Section 7087 of the Revised Laws of Hawaii 1945, Relating to the Sale of Adulterated, Misbranded, or Ungraded Milk.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7086 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"Sec. 7086. Selling adulterated, misbranded or ungraded milk.**

No person shall sell, offer, or have in his possession with intent to sell, any adulterated or misbranded milk or milk products. No person shall sell, offer, or have in his possession with intent to sell, any ungraded milk or milk products, except ungraded reconstituted or recombined milk or milk products. Any person violating the provisions of this section shall be subject to the penalties provided in section 2020."

SECTION 2. Section 7087 of the Revised Laws of Hawaii 1945 is hereby repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1955.) **S.B. 862, Act 252.**

### ACT 253

An Act Allowing Tort Claims Against the Territory in Certain Instances.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. A new section, to be appropriately numbered by the secretary of Hawaii and reading as follows is hereby added to chapter 220 of the Revised Laws of Hawaii 1945:

**"Sec. [10484.01.] Tort claims against Territory limited to insurance coverage.** No defense of sovereign immunity shall be raised in any suit where the Territory is a party defendant and the subject matter of the claim is covered by an insurance policy entered into by the Territory or any of its agencies. However, the Territory's liability under this section shall not exceed the amount of, and shall be defrayed by, such insurance policy."

SECTION 2. This Act shall take effect on July 1, 1955.

(Approved June 14, 1955.) **H.B. 254, Act 253.**

## ACT 254

An Act to Create the Hawaii Development Credit Corporation, Providing for the Making of Loans Thereto by Financial Institutions and the Territorial Employees' Retirement System, and Authorizing the Issuance of Bonds, and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby created the Hawaii Development Credit Corporation to consist of five members to serve for four year terms; **provided**, that of the members first appointed the chairman shall be appointed for a term of four years and of the other four members, one shall be appointed for one year, one for two years, one for three years and one for four years. One of the members shall be designated by the governor as chairman. All members of the corporation shall be appointed and may be removed by the governor pursuant to section 80 of the Organic Act and shall hold office until their successors are appointed.

SECTION 2. The corporation shall have all the powers conferred upon corporations under the laws of the Territory including the right to sue and be sued.

SECTION 3. The purposes of this corporation shall be to promote, aid and, through the united efforts of the institutions and corporations which from time to time shall loan funds to this corporation, to develop and advance the industrial and business prosperity and welfare of the Territory of Hawaii; to encourage new industries, to stimulate and help to expand all kinds of business ventures which tend to promote the growth and thrift of the Territory; to act, whenever and wherever deemed by it to be advisable in conjunction with other organizations, the objects of which are the promotion of industrial, agricultural or recreational development of every kind of business or industrial undertaking whereby a medium of credit is established not otherwise readily available therefor; and in furtherance of such purposes, and in addition to the powers conferred by general laws relating to corporations, this corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

(a) To borrow money on secured or unsecured notes from any bank, insurance company, or other financial institution within the Territory and to pledge bonds, notes and other securities as collateral therefor.

(b) To lend money upon secured or unsecured applications; **provided**, that it shall not be the purpose hereof to take from any financial institution within the Territory any such loans or commitments as may be desired by such institutions generally in the ordinary course of their business.

(c) To establish and regulate the terms and conditions of any such loans and charges for interest or service connected therewith.

(d) To purchase, hold, lease and otherwise acquire and to convey such real estate as may, from time to time, be acquired by it in satisfaction of debts or may be acquired by it in the foreclosure of mortgages thereon or upon judgments for debts or in settlement to secure debts.

SECTION 4. Banks, insurance companies, and other financial institutions within the Territory may apply to the corporation to lend funds to it and shall make such loans when called upon to do so. The total amount

on loan by any member shall not exceed the following limits: trust companies,  $2\frac{1}{2}$  per cent of capital and surplus; banks,  $2\frac{1}{2}$  per cent of capital and surplus and  $2\frac{1}{2}$  per cent of all moneys deposited in the savings department; building and loan associations,  $2\frac{1}{2}$  per cent of guaranty funds; insurance companies,  $2\frac{1}{2}$  per cent of capital and surplus, and comparable limits for other financial institutions.

All calls when made by the corporation shall be prorated among the institutions applying to lend money to the corporation in the same proportion that the maximum lending limit of each bears to the aggregate maximum lending limits of all such institutions.

SECTION 5. The territorial employees' retirement system is hereby authorized to lend to the corporation funds to the extent of \$2,000,000. The total amount borrowed from the system shall at no time exceed the bonds set aside as provided in section 6.

SECTION 6. There is hereby appropriated to the corporation the sum of \$5,000,000 out of any moneys hereafter received by the treasurer of the Territory of Hawaii for or on account of loan funds and bonds may be issued as provided by law to the extent necessary to yield the amount herein appropriated. At all times there shall be set aside such proportion of the bonds authorized to be issued hereunder as will, when the proceeds from the issuance thereof are received, guarantee to the retirement system the repayment of all amounts borrowed therefrom under the provisions of section 5.

SECTION 7. This Act shall become effective upon its approval by the Congress of the United States.

(Approved June 14, 1955.) S. B. 464, Act 254.

## ACT 255

An Act Making an Appropriation for the Acquisition of Public School Sites, Construction of Public Schools and Financing Same in the City and County of Honolulu.

WHEREAS, Item 6 (e) of section 2 of Act 280 of the Session Laws of Hawaii 1953 appropriated \$7,000,000 for Oahu schools, subject to be expended as provided by the 1955 Legislature, and was included in said Act for the purpose of securing authority from the Congress of the United States to issue bonds therefor; and

WHEREAS, the Congress of the United States has approved and authorized the issuance of bonds in the said sum of \$7,000,000; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. (a) The sum of \$7,000,000 is hereby appropriated out of any moneys received by the treasurer of the Territory of Hawaii for or on account of loan funds, or so much thereof as may be found necessary for the purpose of acquiring sites for new schools and additions to existing sites and construction of public school buildings and facilities in the city and county of Honolulu, for the school years, 1956 and 1957.

(b) The sum appropriated by this section shall be expended by the

board of supervisors of the city and county of Honolulu in accordance with the priority as recommended by the department of public instruction for acquisition of new school sites and additions to existing school sites and for construction of school buildings and facilities.

Such new school sites or additions to existing sites shall be selected by the department of public instruction.

(c) The sum appropriated by this section shall also be expended by the board of supervisors of the city and county of Honolulu for the planning and construction of school buildings and facilities, such construction to be under the control and direction of the superintendent of buildings of the city and county of Honolulu and to be made in accordance with plans and specifications prepared by said superintendent of buildings which shall comply with the standards of instructional needs and requirements presented by the department of public instruction.

SECTION 2. (a) The city and county shall pay to the Territory on the interest dates of serial bonds issued by the Territory under this Act, the proceeds of which shall have been or are to be expended for the purposes herein stated, the interest then due thereon and in addition thereto shall pay to the Territory on or before the twentieth day of November of each year the amount of the principal of such serial bonds maturing the following year.

(b) The auditor of the Territory is authorized to deduct from the amount of any warrant or warrants otherwise issuable by him to the treasurer of the city and county of Honolulu such amounts when due as are required by this section to be paid by the city and county of Honolulu, and proper receipts shall thereupon be exchanged between the treasurer of the Territory and the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 14, 1955.) S.B. 674, Act 255.

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## ACT 256

An Act to Amend Section 704 Revised Laws of Hawaii 1945, as Amended, Relating to Prior Service Creditable Under the Employees' Retirement System.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Subsection 3 of section 704, Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"3. Membership service generally. Membership service shall include (a) service by an employee rendered since becoming a member, (b) service rendered prior to becoming a member but (1) subsequent to January 1, 1926, by an employee of the Territory or (2) subsequent to January 1, 1928, by an employee of any county (3) service as an employee of the federal government where the function carried on by said government has been transferred to the Territory or any county, or where the employee has been transferred to the federal government and subsequently retransferred to the Territory or any county, and (4) service of a governmental nature performed under

the supervision or control of the Territory or any county, and performed for the Territory or any county by an employee of an employer other than the Territory or any county. Service credited or creditable as prior service shall not be included. Membership service shall not be credited for any period which is not covered by the contributions of the member to the annuity savings fund, except as otherwise provided in subsection 4 of this section."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 14, 1955.) S.B. 724, Act 256.

## ACT 257

An Act to Provide for the Institutional Treatment of Users of Narcotics.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The purpose of this Act is to protect the health and safety of the people of the Territory from the menace of drug addiction and to afford an opportunity to the drug user for rehabilitation. It is intended that criminal laws shall be enforced against drug users as well as other persons, and this Act shall not be used to substitute treatment for punishment in cases of crime committed by drug users.

SECTION 2. **Definitions.** As used in this Act:

(1) The term "drug user" means any person who habitually uses any habit-forming narcotic drugs so as to endanger the public morals, health, safety, or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

(2) The term "patient" means a person with respect to whom there has been filed with the clerk of the circuit court of the Territory of Hawaii a statement as provided for in section 3.

SECTION 3. **Filing a statement.**

(a) Whenever it appears to the attorney general that any person within the Territory other than a person referred to in subsection (b), is a drug user, he may file with the clerk of the circuit court of the judicial circuit in which such drug user resides a statement in writing setting forth the facts tending to show that such person is a drug user.

(b) The attorney general shall not file a statement under this section with respect to any person who is charged with a criminal offense, whether by indictment, by information, or who is under sentence for a criminal offense, whether he is serving the sentence, or is on probation or parole, or has been released on bond pending appeal.

SECTION 4. **Court order for examination.** Upon the filing of such a statement, the court shall order the patient to appear before it for an examination by physicians pursuant to section 6 (a) of this Act and for a hearing if required under section 7 of this Act. The copy of the statement and order of the court shall be served personally upon the patient by the high sheriff of the Territory or his deputy.

SECTION 5. **Right to counsel.** A patient shall have the right to the

assistance of counsel at every stage of the judicial proceeding under this Act. Before the court appoints physicians pursuant to section 6 of this Act it shall advise the patient of his right to counsel and shall assign counsel to represent him if the patient is unable to obtain counsel.

**SECTION 6. Examinations by physicians.**

(a) When such a statement has been filed the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination the court may order the patient committed for such reasonable period as the court may determine to a suitable hospital or other facility to be designated by the court. Each physician shall, within such periods as the court may direct, file a written report of the examination, which shall include a statement of his conclusion as to whether the patient is a drug user.

(b) The counsel for the patient may inspect the reports of the examination. No such report and no evidence resulting from the personal examination of the patient or evidence offered by the patient shall be admissible against him in any judicial proceeding except a proceeding under this Act.

**SECTION 7. When hearing is required.** If, in a report filed pursuant to section 6 of this Act, either of the examining physicians states that the patient is a drug user, or that he is unable to reach any conclusion by reason of the refusal of the patient to submit to thorough examination, the court shall conduct a hearing in the manner provided in section 8 of this Act. If, on the basis of the reports filed, the court is not required to conduct such a hearing, it shall enter an order dismissing the proceeding under this Act. If a hearing is deemed necessary, then such notice of hearing shall be served personally upon the patient to afford the said patient the opportunity to prepare for the hearing.

**SECTION 8. Hearing.** Upon the evidence introduced at a hearing held for that purpose the court shall determine whether the patient is a drug user. The hearing shall be conducted without a jury unless, before the hearing and within fifteen days after the date on which the second report is filed pursuant to section 6 of this Act, a jury is demanded by the patient or by the attorney general. The patient may, after appointment or employment of counsel, waive a hearing and be committed directly to a hospital designated by the circuit of the judicial circuit in which such drug user resides. The rules of evidence applicable in judicial proceedings in the court are applicable to hearings pursuant to this section, including the right of the patient to present evidence in his own behalf and to subpoena and cross-examine witnesses.

**SECTION 9. Confinement of patient.** If the court finds the patient to be a drug user, it may commit him to a hospital designated by the patient or the board of health, and approved by the court, to be confined therein for rehabilitation until released in accordance with section 10 of this Act. The head of the hospital shall submit written reports, within such periods as the court may direct, but no longer than six months after the commitment and for successive intervals of time thereafter, and state reasons why the patient has not been released.

**SECTION 10. Release of patient.**

(a) When the head of the hospital to which the patient is committed



finds that the patient appears to be no longer in need of institutional treatment or has received maximum benefits therefrom, he shall give notice to the judge of the committing court together with his recommendation as to the necessity for further care, treatment, guidance, or rehabilitation of the patient, and the said patient shall be delivered to the said court, for such further action as the court may deem necessary and proper under the provisions of this Act.

(b) The court, upon petition of the patient, shall inquire into the refusal or failure of the head of the hospital to release him. If the court finds that the patient is no longer in need of institutional treatment, or has received maximum benefits therefrom, it shall order the patient to be discharged or released, in accordance with the provisions of section 11.

**SECTION 11. Probationary release.** The court, in ordering the discharge or release of a patient from a hospital pursuant to section 10, may in its discretion and as it deems necessary, order such patient to undergo a program of care, treatment, guidance, or rehabilitation as an out-patient at such hospitals, clinics or other facilities as the court may designate and for such period as the court may direct provided that said period shall not exceed two years from the date of such order.

**SECTION 12. Patient not deemed a criminal.** The patient in any proceeding under this Act shall not be deemed a criminal and the commitment of any such patient shall not be deemed a conviction.

**SECTION 13.** This Act shall take effect upon its approval.

(Approved June 15, 1955.) **H.B. 1267, Act 257.**

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## ACT 258

An Act Relating to the Board of Commissioners of Agriculture and Forestry: Regulating the Shipment of Hawaii-Grown Fresh or Processed Fruits, Vegetables, Nuts, Flowers, and Foliage; Providing for Minimum Grades Therefor and Inspection Thereof; Providing Penalties, and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Act 117 of the Session Laws of Hawaii 1949, as amended, is hereby repealed.

**SECTION 2. Purpose.** The shipment of Hawaii-grown fresh or processed fruits, vegetables, nuts, flowers and foliage to points outside the Territory is hereby declared to be affected with a public interest.

It is further declared to be the policy of this Territory to aid agricultural producers by preventing the export of inferior quality of Hawaii-grown fresh or processed agricultural commodities to points outside the Territory.

The provisions of this Act are enacted in the exercise of the police powers of the Territory for the purpose of protecting and developing export markets for Hawaii-grown agricultural products.

**SECTION 3. Definitions.** For the purposes of this Act, unless otherwise required by the context.

"Board" means the board of commissioners of agriculture and forestry;

"Director" means the director of the division of entomology and marketing;

"Commercial exporter" means any person who is engaged in the business of exporting fresh or processed fruits, vegetables, nuts, flowers, and foliage to points outside the Territory;

"Person" means any individual, firm, corporation or association;

"Processed" means canned, preserved, frozen, pickled, dried or otherwise prepared with or without any ingredients added thereto;

"Style" means the kind or class of any particular processed fruit, vegetable, nut, flower or foliage as determined by their physical characteristics, usually the size and shape thereof.

**SECTION 4. Rules and regulations.** The board shall have the necessary powers to carry out and effectuate the purposes of this Act, including the following:

To establish, prescribe, modify or alter, by rules and regulations, which shall have the force and effect of law, such grades, standards, and classifications as shall be the minimum requirements for fresh and processed fruits, vegetables, nuts, flowers, and foliage destined for shipment by commercial exporters to points outside the Territory; **provided**, that the provisions of such grades, standards, and classifications shall not excuse failure to comply with the provisions of the federal and territorial food, drug, and cosmetic acts. The board in establishing such rules and regulations shall consult with appropriate territorial and federal agencies and with any appropriate industry or trade organization. The standards, grades, and classification so established shall be on the basis of what the board may deem best suited to the agricultural, horticultural, or other interests of the Territory; **provided**, that the minimum requirements for the grades, standards and classifications so established for processed fruits, vegetables, nuts, flowers, and foliage shall not be higher than that of any standardized product which is sanitary and which has been demonstrated to be a commercially-acceptable product of the class to which it belongs and for which a market has been established; **provided**, further, that different minimum requirements may be applied to different styles of processed fruits, vegetables, nuts, flowers, and foliage; and **provided**, further, that any processed pineapple product, in which the fruit ingredients are at least ninety-five per cent pineapple in compliance with the provisions of the federal and territorial food, drug, and cosmetic acts, may be exported from the Territory.

**SECTION 5. Prohibited acts.** No commercial exporter shall ship any fresh or processed fruits, vegetables, nuts, flowers or foliage to points outside the Territory unless such products meet the quality and condition requirements of the rules and regulations promulgated under this Act.

**SECTION 6. Inspection.** The director is authorized to designate any employee or agent of the division of entomology and marketing to inspect or classify fresh and processed fruits, vegetables, nuts, flowers, and foliage.

**SECTION 7. Duties of director; violations; proceedings; penalties.** It shall be the duty of the director to administer and enforce the provisions of this Act and any rules or regulations promulgated thereunder.

(a) Civil action. Any person who violates any provisions of this Act or any rule or regulation promulgated thereunder shall be liable for damages in civil action brought by the director in the name of the Territory for

a penalty in an amount not to exceed a sum of five hundred dollars for each and every violation. Any money recovered by the director under this provision shall be deposited in the general fund of the Territory.

(b) Nuisance may be enjoined, abated. Violation of this Act or of any regulation promulgated thereunder is declared a public nuisance and may be enjoined or abated as such in a suit filed and prosecuted in the circuit wherein such public nuisance is committed by the director or the attorney general. The several circuit courts are hereby vested with jurisdiction to prevent and restrain violation of this Act or of any regulation effected thereunder.

(c) Misdemeanor. Every person who violates any provisions of this Act or of any rule or regulation promulgated thereunder shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than fifty dollars, nor more than five hundred dollars. Each day during which any of the above violations occur shall constitute a separate offense.

(d) Penalties concurrent and alternative. The penalties and remedies prescribed in this section with respect to any violation mentioned in this section shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal or alternative rights, remedies or penalties provided or allowed by law with respect to any such violations.

SECTION 8. Separability. If any section, sentence, clause or part of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the remaining portions of this Act. The legislature hereby declares that it would have passed this Act and each and every section, sentence, clause and parts thereof despite the fact that one or more sections, sentences, clauses or parts thereof be declared unconstitutional.

SECTION 9. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of \$40,000, or so much thereof as may be necessary, to the board of commissioners of agriculture and forestry to be used to carry out and effectuate the purposes of this Act for the biennium ending June 30, 1957. Said board shall include in its budget for subsequent fiscal periods the amounts necessary to effectuate the purposes of this Act.

SECTION 10. This Act shall take effect on July 1, 1955.

(Approved June 15, 1955.) S.B. 576, Act 258.

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## ACT 259

An Act to Amend Chapter 144 of the Revised Laws of Hawaii 1945, Relating to Public Accountancy, Providing for Registration and Regulation of Public Accountants and Providing Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 144 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

**"CHAPTER 144. PUBLIC ACCOUNTANCY.**

**Sec. 7521. Public accountancy, definition.** A person shall be deemed to be engaged in the practice of public accountancy within the meaning and intent of this chapter:

(a) Who holds himself out to the public in any manner as one skilled in the knowledge, science and practice of accounting, and as qualified and ready to render professional service therein as a public accountant for compensation; or

(b) Who maintains an office for the transaction of business as a public accountant; or who practices accounting, as distinguished from bookkeeping; or

(c) Who offers to prospective clients to perform for compensation, or who does perform on behalf of clients for compensation, professional services that involve or require an audit, examination, verification, investigation, certification, presentation, or review, of financial transactions and accounting records; or

(d) Who prepares or certifies for clients reports of audits or examinations of books or records of account, balance sheets, and other financial, accounting and related schedules, exhibits, statements, or reports which are to be used for publication or for credit purposes, or for filing with a court of law or with any governmental agency, or for any other purpose; or

(e) Who, in general or as an incident of such work, renders professional services to clients for compensation in any or all matters relating to accounting procedure and to the recording, presentation, or certification of financial information or data.

Nothing contained in this chapter shall preclude any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant, **provided** that such employee or assistant shall work under the control and supervision of a certified public accountant, or a public accountant authorized to practice public accountancy pursuant to the provisions of this chapter, and **provided** further, that such employee or assistant shall not issue any statement or report over his or her name except such office reports to his or her employer as are customary and that such person shall not in any manner be held out to the public as a certified public accountant or public accountant.

Nothing contained in this chapter shall be deemed to be applicable to an attorney at law in connection with the practice of law.

Nothing contained in this chapter shall be deemed to require registration under the provisions of this chapter as a qualification for employment by the Territory or any county.

**Sec. 7522. Board; members; qualifications; tenure.** There is hereby created a board of accountants of the Territory, consisting of seven members to be appointed by the governor in the manner prescribed in Section 80 of the Organic Act. Members of the board shall be citizens of the United States and residents of the Territory. Five members shall hold certificates of certified public accountants issued under this chapter and be in active practice as certified public accountants. Two members shall be registered under this chapter as

public accountants and shall be in active practice as public accountants; **provided** that prior to December 31, 1955, persons eligible for registration as public accountants shall be appointed but such persons shall be removed if they shall not have registered under this Act prior to such date.

Members of the board shall hold office for five years each and each member shall continue to serve until his successor shall have been appointed and shall have qualified, except that the five members to be first appointed as certified public accountants shall be appointed for terms of one year, two years, three years, four years and five years, respectively, and the other two members to be first appointed shall be appointed for terms of three and five years, respectively, as designated by the governor. Vacancies occurring shall be filled by appointment for the unexpired term. The governor shall remove from the board, in accordance with the provisions of Section 80 of the Organic Act, any member who ceases to engage in active practice as a certified public accountant or as a public accountant or whose permit to practice or registration has become void, revoked or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause.

As used in this chapter, 'board' means the board created by this section.

**Sec. 7523. Organization, records, reports.** The board shall organize by the election of one of its members as president, one member as secretary and one member as treasurer, **provided** that the office of the secretary and treasurer may be held by one person. The board shall keep a complete record of all its proceedings and shall present annually to the governor a detailed statement of the receipts and disbursements of the board during the preceding year, with a statement of its acts and proceedings and such recommendations as the board may deem proper.

**Sec. 7524. Powers.** The board shall be authorized:

- (a) To determine the qualifications of all applicants;
- (b) To conduct investigations and examinations and issue certificates of certified public accountant to qualified applicants;
- (c) To conduct investigations and register qualified applicants as public accountants;
- (d) To conduct investigations and hearings, either upon complaint or on its own motion, on any matter involving the conduct of certified public accountants or public accountants or the violation of any of the provisions of this chapter;
- (e) To employ clerks, examiners and other assistants for the performance of its duties;
- (f) To revoke, suspend or refuse to renew the certificate of any certified public accountant or the registration of any public accountant, or may censure any such person for any cause enumerated in section 7531; and
- (g) To promulgate and amend from time to time, with the approval of the governor, such rules and regulations as may be requisite properly to carry out the purposes of this chapter and maintain a high standard of integrity and dignity among certified public ac-

countants and public accountants. **Provided**, however, that members of the board who are not certified public accountants shall not act in respect of any matter relating only to certified public accountants and in respect of such matter, the action of the board shall be determined by the concurrence of not less than three members who are certified public accountants.

**Sec. 7525. Compensation and expenses.** Members of the board shall not receive any compensation for performance of the duties imposed upon them by this chapter, but shall be entitled to necessary traveling expenses.

**Sec. 7526. C. P. A. examinations, grading.** Written examinations of applicants for certificates of certified public accountant shall be held as often as may be necessary in the opinion of the board, and at such times and places as it may designate, but not less than once in each calendar year. If five or more persons apply for examination within not less than four months after the annual examination, the board shall hold an examination for the applicants. Examinations may be both oral and written, at the discretion of the board. They shall be those prescribed by the American Institute of Accountants in the rules of the board of examiners of that institute as they may be altered from time to time by the council of the American Institute of Accountants.

The board shall make the necessary arrangements with the council of the American Institute of Accountants to grade the answers of the candidates.

The grading of the answers of the candidates shall be submitted to the board for approval.

**Sec. 7527. Qualifications of C. P. A.** An applicant for admission to the examination for a certified public accountant certificate shall (a) be a citizen of the United States or have declared his intention of becoming a citizen; (b) have been a bona fide resident of the Territory of Hawaii for at least one year immediately preceding the time his application is filed; (c) be over the age of twenty-one years; (d) be of good moral character and (e) shall comply with any of the following:

(1) He shall present satisfactory evidence that he is a graduate of a four year college or university included in the list of accredited higher institutions issued by the federal security agency, office of education, or in the absence of such list, any comparable list recognized by the regents of the University of Hawaii.

(2) He shall have filed an application prior to June 30, 1960 and shall present satisfactory evidence that he has completed a four year high school course or the equivalent hours of courses of study in an evening high school which included three years of English and two years of mathematics.

(3) He shall be a public accountant registered under this chapter and shall present satisfactory evidence that he has completed a four year high school course or the equivalent hours of courses of study in an evening high school which included three years of English and two years of mathematics.

The board may require an applicant to appear in person to deter-

mine whether his qualifications are as prescribed in this chapter and the rules of the board thereunder.

An applicant for a certificate of certified public accountant who shall have successfully passed the written examinations prescribed in section 7526 shall receive a certificate as a certified public accountant if he has completed, or upon his completion of any one of the following requirements:

(a) Three years of public accounting experience, two years of which have been in the employ of a certified public accountant or a partnership of which not less than one-half of the partners are certified public accountants.

(b) Four years of public accounting experience, one year of which has been in the employ of a certified public accountant or a partnership of which not less than one-half of the partners are certified public accountants.

(c) Five years of public accounting experience, none of which was acquired in the employ of a certified public accountant or partnership of certified public accountants.

(d) Five years of governmental accounting or auditing experience, three years of which have been in post-auditing work.

**Provided** that the board shall grant one year's credit toward fulfillment of the public accounting experience requirement of subsection (a), (b), or (c) hereof, to a graduate of a recognized college who has completed a four year course with 30 or more semester hours or the equivalent thereof in the study of accounting, commercial law, economics and finance, of which at least 20 semester hours or the equivalent thereof shall be in the study of accounting.

The board shall prescribe rules establishing the character and variety of experience requirements set forth in this section.

**Sec. 7528. Examination fees.** The board shall have the power to fix examination fees to be charged applicants.

Each applicant for examination and certificate shall pay the fee in full to the board at the time of filing his application. In no case shall the fee be returned. If the applicant fails to pass the examination he shall be entitled to take other examinations in accordance with rules and regulations prescribed by the board.

**Sec. 7529. Waiver of examination; revocation.** The board shall, upon application in writing, waive the examination of, and issue of a certificate to, any person of good moral character over the age of twenty-one years, who, at the time of filing application for the certificate, is a citizen of the United States, or who, in good faith, has declared his intention of becoming a citizen, and who has resided within the Territory for at least one year next preceding such application and who maintains an office standing ready to conduct a practice of public accounting or is employed in the office of a certified public accountant or is in partnership with a certified public accountant, and who has the degree of certified public accountant or a comparable accounting degree evidenced by a certificate issued by or under the authority of another Territory or state or foreign nation; **provided**, however, that such certificate was issued with the approval of the state board of accountancy or examiners of the Territory or state or foreign

nation issuing same; and, **provided**, further, that the standards prescribed by law or by the rules of such board and the examinations conducted are fully equivalent to the standards maintained in the Territory. If, for any reason, the certificate of original issue be revoked or canceled, the board shall forthwith revoke the certificate issued to such person in accordance with this section.

**Sec. 7530. Registration of public accountants.** Any person who is a citizen of the United States or has declared his intention of becoming a citizen, a resident of the Territory, over the age of twenty-one years and of good moral character, and who on the effective date of this chapter meets the requirements of subsections (a), (b), or (c) of this paragraph shall be registered as a public accountant upon application to the board on or before December 31, 1955:

(a) Any person who holds himself out to the public as being engaged in the practice of public accountancy and who is engaged in the practice of public accountancy as his principal occupation, either on his own account, or as a member of a firm, or as an employee of a certified public accountant or public accountant and regularly assigned to accountancy engagements.

(b) Any person engaged in accounting or auditing work in the Territory as an employee of the United States, the Territory or any county in a position in grade GS-9 under the territorial classification schedule in effect on March 1, 1955, or the equivalent or higher grade.

(c) Any person engaged in private accounting or auditing who has had not less than three years' experience in such work or in public accounting or both and whose experience is of such a character and for a length of time sufficient in the opinion of the board to be substantially equivalent to three years of public accounting experience.

Any person who is a citizen of the United States, or has declared his intention of becoming a citizen, a resident of the Territory, over the age of twenty-one years, of good moral character, who is serving in the armed forces of the United States on the effective date of this chapter, who was a resident of the Territory at the time of entering such service and who at the time of entering service met the requirements set forth in subsection (a), (b), or (c) shall be registered as a public accountant upon application to the board within six months after an honorable release or discharge from such service.

**Sec. 7531.** The board may revoke or suspend or refuse to renew the certificate of any certified public accountant or the registration of any public accountant or may censure any certified public accountant or public accountant for any one or any combination of the following causes:

(1) Conviction of a felony under the laws of any state or Territory or the United States;

(2) Conviction of any crime, an essential element of which is dishonesty, deceit, or fraud;

(3) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter;

(4) Dishonesty, fraud or gross negligence in the practice of public accountancy;

(5) Violation of any of the provisions of this chapter;



(6) Wilful violation of a rule or regulation promulgated by the board under the authority granted in this chapter;

(7) Suspension or revocation of the right to practice before any governmental body or agency.

A certificate of, or registration by, any person who has declared his intention of becoming a citizen of the United States shall become void at the expiration of eight years from the date of declaration of the intention of such applicant to become a citizen, unless, prior to the expiration of said eight years evidence is furnished to the board that the applicant has become a citizen of the United States.

No certificate or registration shall be revoked or suspended except after a hearing, at which hearing at least a majority of the board shall be present. No registration shall be revoked or suspended except after a hearing before the board, at which meeting all members shall be present. The attorney general or an attorney designated by him shall attend and act as the legal advisor of the board. Written notice of the proposed hearing shall be mailed to the holder of the certificate or the registrant at his last known address at least twenty days before the date thereof, stating the basis or cause for the proposed action and appointing a time and place for the hearing. The board shall keep a complete record of all proceedings with respect to the revocation or suspension of any certificate or registration.

**Sec. 7532. Registration fee.** The board shall collect a fee of twenty-five dollars from every person applying for registration as a public accountant.

**Sec. 7533. Renewal fee.** All certified public accountants and public accountants shall pay to the board an annual renewal fee of ten dollars, payable in advance on or before January 1, beginning January 1, 1956, in the case of certified public accountants and January 1, 1957, in the case of public accountants.

**Sec. 7534. Disposition of fees.** All fees and other moneys received by the board shall be turned over to the treasurer of the Territory; the treasurer shall make available to the board sufficient funds for the board to pay, and the board shall pay, all expenses incident to the examinations to be held under this chapter, the expenses of preparing and issuing certificates, compensation and traveling expenses of members of the board, stationery, printing, clerk hire and incidental expenses.

**Sec. 7535. Violations.** On and after January 1, 1956, no person shall engage in the practice of public accountancy in this Territory unless he is a certified public accountant under the laws of the Territory or is registered as a public accountant under the provisions of this chapter; **provided**, however, that nothing in this chapter shall prohibit a certified public accountant or public accountant of any state, or another Territory, or a foreign country lawfully practicing therein, from temporarily practicing in this Territory to the extent that such practice is merely incidental to his regular practice in such state, Territory or country.

No person not holding a certificate of certified public accountant issued under this chapter and no corporation shall use the title 'certified public accountant', 'chartered accountant', 'enrolled accountant',

'registered accountant', or 'licensed accountant', or any other titled or designation likely to be confused with 'certified public accountant' or any of the abbreviations 'C.P.A.', 'C.A.', 'E.A.', 'R.A.', or 'L.A.' or similar abbreviations likely to be confused with 'C.P.A.'.

No person not registered or certified under this chapter and no corporation shall use the title 'public accountant' or any other title or designation likely to be confused with 'public accountant' or the abbreviation 'P.A.' or any other abbreviation likely to be confused with 'P.A.'.

No person shall affix his signature, with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement or to any opinion or report on or certificate to any accounting or financial statement, unless he holds a certificate or registration issued under this chapter which has not been revoked or suspended, **provided**, however, that the provisions of this subsection shall not prohibit any officer, employee, partner or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title, or office which he holds in said organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

**Sec. 7536. Presumptive evidence.** The display or uttering by a person or a card, sign, advertisement or other printed, engraved or written instrument or device, bearing a person's name in conjunction with the words 'certified public accountant' or any abbreviation thereof or 'public accountant' shall be prima facie evidence in any prosecution, proceeding or hearing brought under this chapter that the person whose name is so displayed caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device. Any such display or uttering shall be prima facie evidence that the person whose name is so displayed holds himself out as a certified public accountant, or a public accountant. In any prosecution or hearing under this chapter, evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify a conviction without evidence of a general course of conduct.

**Sec. 7537. Injunctions.** Whenever in the judgment of the board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute an offense against this chapter, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon showing by the board that such person has engaged, or is about to engage, in any such acts or practices an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

**Sec. 7538. Penalty.** Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

**Sec. 7539. Ownership of working papers.** All statements, records, schedules, working papers, and memoranda made by a certified public accountant or public accountant incident to or in the course of professional service to clients by such certified public accountant or public accountant, except reports submitted by a certified public accountant or public accountant to a client, shall be and remain the property of such certified public accountant or public accountant, in the absence of an express agreement between the certified public accountant or public accountant and the client to the contrary."

**SECTION 2.** References in chapter 144 of the Revised Laws of Hawaii 1945, as amended by section 1 of this Act, to the effective date of said chapter shall be deemed to mean the effective date of this Act.

**SECTION 3.** The members of the territorial board of accountancy provided for by chapter 144 of the Revised Laws of Hawaii 1945 prior to the effective date of this Act shall continue in office until the expiration of their existing terms of office as adjusted by the governor to comply with the provisions of section 7522 unless sooner removed as provided for in this chapter. Within thirty days of the effective date of this section the governor shall appoint the two members to the board who are public accountants.

**SECTION 4.** Nothing contained in this Act shall be construed to invalidate certificates of certified public accountant heretofore issued in accordance with the laws of the Territory, but all such certificates shall be subject to revocation or suspension and the holders thereof shall be subject to the annual renewal fee as provided in section 1 of this Act.

**SECTION 5.** If any provision in this Act or the application thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

**SECTION 6.** This Act shall not affect the liability of any person to prosecution and punishment for any offense committed prior to its effective date and all such offenses may be prosecuted and punished as though this Act had not been enacted. Nor shall this Act affect the liability of the holder of a certificate of certified public accountant to revocation of the certificate for any cause occurring prior to the effective date of this Act.

**SECTION 7.** This Act shall take effect upon its approval.

(Approved June 15, 1955.) **H.B. 551, Act 259.**

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## ACT 260

**An Act Regulating Advertising Relative to the Sale or Offering for Sale of Merchandise, Commodities and Service, and Providing Penalties.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** It shall be unlawful for any person, firm or corporation offering for sale merchandise, commodities or service to make, publish, disseminate, circulate or place before the public within this Territory in any manner, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, sign, billboard, bill, circular, pamphlet or letter,

photograph, motion picture, radio, loudspeaker, television, telephone, telegraph, or in any other way, an advertisement of merchandise, commodities or service, as part of a plan or scheme with the intent, design or purpose not to sell the merchandise, commodities or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities or service so advertised.

SECTION 2. Any person, firm or corporation violating Section 1 may be enjoined from further violation on suit brought by the attorney general or any county attorney. Any person, including any responsible officer or employee of a firm or corporation, who shall violate, or knowingly aid in the violation of the provisions of Section 1 on conviction thereof shall be fined not more than five hundred dollars or imprisoned for not more than three months, or both.

SECTION 3. This Act shall take effect on approval.

(Approved June 15, 1955.) **H.B. 1245, Act 260.**

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### ACT 261

An Act to Place the Employees of the Rent Control Commission of the City and County of Honolulu under Civil Service.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Every employee of the Rent Control Commission of the city and county of Honolulu who on the effective date hereof shall have been employed by such commission for six months or longer is hereby declared to be a regular employee of the civil service system of the city and county of Honolulu without loss of his vacation allowance, service credit and other rights and privileges and to be covered by the provisions of chapters 2 and 3 of the Revised Laws of Hawaii 1945, as amended, without the necessity of competitive examination for any position held at the time of April 15, 1955.

SECTION 2. Every employee of the Rent Control Commission who as of the effective date hereof shall have been employed by the Rent Control Commission for less than six months shall be given status as a regular employee of the civil service without competitive examination upon the completion of six months of satisfactory service with the Rent Control Commission as certified by the commission upon the completion of such period of six-month service; **provided**, however, that such certification must be made within 20 calendar days after completion of such six-month period; **provided** further that if rent control has not been extended on June 25, 1955, an employee who has served satisfactorily for a period of less than six months, but employed prior to April 25, 1955, may be so certified by the commission and upon such certification shall become a regular employee.

SECTION 3. All persons employed by the Rent Control Commission of the city and county of Honolulu after the effective date hereof shall be employed subject to the provisions of section 74 of chapter 2 and chapter 3 of the Revised Laws of Hawaii 1945, as amended.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 15, 1955.) **H.B. 590, Act 261.**

**ACT 262**

An Act Relating to Territorial Prison Camps, Including the Use of Prisoners for Gorse Control.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The director of institutions shall at all times, except in cases of emergency, maintain as many prisoners as are available under the provisions of law relating to the transfer of prisoners to territorial prison camps at the territorial prison camp in the county of Maui whose primary duty it shall be to engage in gorse control work on the island of Maui. The director of institutions may assign prisoners to any other project authorized by the legislature, provided however, upon completion of such project, the prisoners shall be immediately reassigned to gorse control work.

SECTION 2. This Act shall take effect ten days upon its approval.

(Approved June 15, 1955.) S.B. 59, Act 262.

**ACT 263**

An Act to Amend Sections 7233, 7232, 7221 and 7239 of the Revised Laws of Hawaii 1945 Relating to Liquor License Fees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 7233 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

"Section 7233. License fees. The fees for licenses of the several classes and kinds shall be as follows, the same being per annum except where otherwise specified:

Class	Kind	Fees for district of Honolulu
1. Manufacturers (including rectifiers)	(a) Beer	\$300.00
	(b) Wine	300.00
	(c) Wine manufactured from fruits grown in the Territory	48.00
	(d) Alcohol	150.00
	(e) Other liquors	480.00
2. Agents	(a) General	180.00
3. Wholesale	(a) General	900.00
	(b) Beer and Wine	240.00
	(c) Alcohol	24.00
4. Retail	(a) General	420.00
	(b) Beer and Wine	180.00
	(c) Alcohol	12.00
5. Dispensers	(a) General - \$420.00 or three fourths of one per centum of gross sales, whichever is larger, but not	

to exceed \$1500.00.

(b) Beer and Wine - \$150.00  
or three fourths of one per  
centum of gross sales,  
whichever is larger, but not  
to exceed \$450.00

(c) Beer - \$90.00 or three  
fourths of one per centum  
of gross sales, whichever  
is larger, but not to exceed  
\$270.00

6. Club	240.00
7. Vessel	60.00
8. Additional Vessel Licenses, per day	20.00
9. Special, per day	10.00
10. Cabaret	\$420.00 or three fourths of one per centum of gross sales, whichever is larger, but not to exceed \$1500.00.

The fees for all classes of licenses except dispensers' and cabaret shall be the same outside the district of Honolulu as for the district of Honolulu. The fees for dispensers' and cabaret licenses outside the district of Honolulu shall be one-half of the minimum scheduled fees for the district of Honolulu or three-fourth of one per centum of gross sales, whichever is larger, except in places where within a radius of two miles therefrom there is a population of less than one thousand persons, in which instances the fees for dispensers' and cabaret licenses shall be one-third of the minimum scheduled fees for the district of Honolulu or three-fourth of one per centum whichever is larger."

SECTION 2. Section 7232 Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"Class 10. CABARET LICENSES. A cabaret license shall be general only (but excluding alcohol) and shall authorize the sale of liquors for consumption on the premises. This license shall be issued only for premises where food is served, facilities for dancing by the patrons are provided, including a dance floor and an orchestra of not less than three members, and professional entertainment is provided for the patrons. Notwithstanding any rule or regulation of the Liquor Commissions to the contrary, cabarets may be opened for the transaction of business until 3 a.m. throughout the entire week."

SECTION 3. Section 7221 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by inserting between the sixth and seventh paragraph, the following:

"'Gross sales' means the total receipt actually received from the sale of liquor for which the license has been issued without deduction on account of the cost of property sold or expenses of any kind."

SECTION 4. Section 7239 Revised Laws of Hawaii 1945 is hereby amended by adding thereto a new paragraph to read as follows:

"In the case of dispensers' and cabaret licenses, the fees required to be paid on July 1st of each year, or on such other date as provided by this section, shall be the minimum fees prescribed by section 7233.

Any additional fee based upon gross sales which may be found to be due for any period covered by any such license shall be due and payable 30 days after the expiration of such license."

SECTION 5. This Act shall take effect July 1, 1955.

(Approved June 15, 1955.) H.B. 803, Act 263.

## ACT 264

An Act Establishing an Economic Planning and Coordination Authority; Providing for its Powers, Duties and Functions, and Making an Appropriation thereto; Amending Chapter 93 of the Revised Laws of Hawaii 1945 and Acts 122, 217 and 240 of the Session Laws of Hawaii 1949, 1951 and 1953 Respectively.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 93 of the Revised Laws of Hawaii 1945 is hereby amended to read as follows:

### "ECONOMIC PLANNING AND DEVELOPMENT.

**Sec. 5081. Findings and declaration of necessity.** The legislature hereby finds and determines that it is essential to promote the economic development of Hawaii in order to increase opportunity for gainful employment for all the people of Hawaii; stimulate investment in productive, processing, service, and distributive enterprises; and assure optimum use of existing and potential skills of the people of Hawaii and of its natural resources, all to the end of achieving still higher living standards for an expanding population.

**Sec. 5082. Authority created; members; terms; quorum; officers.** There is hereby created an economic planning and coordination authority, hereinafter referred to as "the authority". The authority shall consist of seven members who shall be appointed and may be removed in the manner provided in section 80 of the Organic Act. No more than four members shall be of the same political party and there shall be at least one member from each of the various counties.

Two of the members who are first appointed shall be designated by the governor to serve for a term of two years, two for a term of three years, and three for a term of four years from the date of their appointment. Thereafter the term of office shall be for four years. A member shall hold office until his successor has been appointed and qualified. Vacancies shall be filled for the unexpired term. Four members shall constitute a quorum.

Members of the authority or of the various standing committees provided for herein shall receive no compensation for services, but shall be entitled to the necessary expenses incurred in the discharge of their duties.

The authority shall select from among its members a chairman, and a vice-chairman, who shall serve for such terms as prescribed by the authority.

**Sec. 5083. Director and employees; contracts; grants.** The

authority shall employ a director, who shall be experienced in economic development activities, and who shall be exempt from the provisions of chapters 2 and 3. The director may, subject to the approval of the authority, employ such persons as may be authorized by the authority and he shall determine their qualifications, duties and compensation, subject to the provisions of chapters 2 and 3. The director may also, subject to the approval of the authority employ an information director who shall be exempt from the provisions of chapters 2 and 3. The salary of the director, and of any information director not subject to civil service, shall be set by the authority.

The board may contract with or make grants to duly qualified private and public agencies, associations, firms, or individuals within or without the Territory in pursuance of the authority's duties and functions; **provided**, however, that preference shall be given to contractors and grantees within the Territory; **provided** further that preference shall be given to qualified grantees who agree to match authority grants in whole or in part with funds, equipment, materials, or services; and **provided** further that grants to assist associations of producers, processors, or distributors of agricultural or industrial products to introduce products which are new or inadequately known to consumers shall be matched by funds equal to at least forty per cent of the funds granted by the authority or expenses incurred by the authority in behalf of such associations.

Such contracts and grants shall be approved in writing by a majority of the members of the authority and shall specify the name of the contractor or grantee, the nature of the work to be performed, the manner in which funds may be expended, and such data as the territorial auditor may require. The allocation of any such contract or grant shall be presented to the territorial director of the budget and expended by the territorial auditor upon vouchers issued by the contractor or grantee and approved by the chairman of the authority.

When necessary to effectuate the purposes of this chapter, grants to territorial agencies may authorize expenditures for the purchase of machinery and equipment and the erection and conversion of structures, laboratories, and buildings within the Territory, which facilities shall be and remain under the jurisdiction of said agencies. Private agencies, associations, firms, or individuals shall provide all structures and equipment necessary to effectuate the purposes of grants made to them, in which cases the value which may be attributed to the use of such facilities shall be considered as matching funds. The authority shall retain under its own jurisdiction only such furniture, office equipment, and other equipment as is necessary for administrative purposes.

**Sec. 5084. Interested members or employees.** No member or employee of the authority shall have any pecuniary interest, direct or indirect, in any contract entered into or grant made by the authority. If any such person has such interest, he shall immediately disclose the same in writing to the authority which shall enter such disclosure upon its minutes. Failure to so disclose such interest shall constitute misconduct in office.



**Sec. 5085. General functions and duties of authority; relation to other agencies.** The duties and functions of the authority shall be as follows: (1) collection and collating information relating to the economic development of the Territory; (2) coordinating territorial activities relating to economic development; (3) stimulating through research and demonstration projects those economic development efforts which offer most promise of expanding the economy of the Territory; (4) preventing wasteful duplication of economic developmental efforts by government and private agencies, and recommending to them means of improving their effectiveness; and (5) determining the relative priority of territorial developmental projects, recommending changes in direction and emphasis to the agencies undertaking the projects.

It shall be the objective of the authority to make broad policy determinations with respect to economic development in the Territory. The authority shall endeavor to gain an understanding of those functions and activities of other territorial agencies which directly relate to the field of economic development, rather than exercise detailed supervision over any of them. The authority shall encourage initiative and creative thinking in harmony with the policy determinations of the authority.

**Sec. 5086. Specific research and promotional functions of the authority.** Without prejudice to its general functions and duties the authority shall have specific functions in the following areas:

(a) Agricultural development. The authority shall conduct surveys and feasibility studies to determine the need for and value of additional research in the production of agricultural commodities, the processing of agricultural food products other than sugar and pineapples, and the marketing of agricultural food products other than sugar and processed pineapples; promote an informational program directed to the consuming public both in Hawaii and in the mainland United States relative to the qualities of agricultural commodities produced in Hawaii and the maximum utilization of same, including processed agricultural food products but excluding sugar, fresh pineapples produced by or marketed through pineapple canneries, and processed pineapple products produced by pineapple canneries; and make grants to and contracts with appropriate agencies, firms or individuals for surveys, studies, research, and promotion.

(b) Industrial development. The authority shall determine through technical and economic surveys the profit potential of new or expanded industrial undertakings; develop through research projects and other means new and improved industrial products and processes; promote studies and surveys to determine consumer preference as to design and quality and to determine the best methods of packaging, transporting, and marketing the Territory's industrial products; disseminate information to assist the present industries of the Territory, to attract new industries to the Territory, and to encourage capital investment in present and new industries in the Territory; assist associations of producers and distributors of industrial products to introduce such products to consumers; and make such

grants or contracts as may be necessary or advisable to accomplish the foregoing.

(c) Land development. The authority shall conduct a continuing study of the utilization of all land in the Territory with a view to determining and encouraging its most productive use; make recommendations to the appropriate private and public agencies, firms, and individuals regarding zoning in the respective counties, the most effective development and utilization of public lands, the improvement of land tenure conditions on leased private lands, and the minimizing of farm relocation problems due to residential developments and other causes; promote an informational program directed to land owners, producers of agricultural and industrial commodities, and the general public regarding the most efficient and most productive use of the lands in the Territory; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.

(d) Credit development. The authority shall conduct a continuing study of agricultural and industrial credit needs; encourage the development of additional private and public credit sources for agricultural and industrial enterprises; to promote an informational program to acquaint financial institutions with agricultural and industrial credit needs and the potential for agricultural and industrial expansion, and inform producers of agricultural and industrial products as to the manner in which to qualify for loans; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing.

**Sec. 5087. Standing advisory committees.** The authority shall establish the following standing advisory committees, the members, unless otherwise provided, to be designated by the chairman of the authority, by and with the advice and consent of the members of the authority. One member of the authority, other than the chairman or vice chairman, shall be designated by the chairman of the authority, by and with the advice and consent of the members of the authority, as the chairman of each of the standing advisory committees.

The staff of the authority shall serve as the staff of the various advisory committees.

The various advisory committees shall exercise the investigating and coordinating functions of the authority within their respective areas of operation.

These committees shall be specifically charged with making recommendations to the authority as to areas where research, development and promotion should be expanded, the manner in which such ends should be achieved, and whether grants should be made and the amount and terms of such grants.

Where various projects involving grants are approved by the authority, the particular advisory committee concerned shall be responsible for conducting, with the assistance of the director and his staff, necessary audits and inspections to determine whether the moneys advanced are being used for the proper purposes and to the best advantage.

(a) Agricultural development advisory committee. There shall be an agricultural development advisory committee consisting of the director of the Hawaii agricultural experiment station, the president of the board of commissioners of agriculture and forestry, the chairman of the commodity board of the Hawaii farm bureau federation, or the duly designated representative of any of the foregoing, and four members appointed by the authority. At least one of such appointed members shall represent commercial producers of livestock or poultry, and at least one shall represent the commercial producers of plant products. This committee shall carry on the investigative and coordinating functions of the authority in the field of agricultural development.

(b) Industrial development advisory committee. There shall be an industrial development advisory committee the members of which shall be the dean of the college of applied science of the University of Hawaii, the dean of the college of business administration of the University of Hawaii and five members appointed by the authority who shall be selected from those members of the community engaged in or primarily interested in industrial activities, except such activities as are within the scope of the agricultural development advisory committee. This committee shall carry on the investigative and coordinating functions of the authority in the field of industrial development.

(c) Land development advisory committee. There shall be a land development advisory committee whose members shall be the commissioner of public lands, the secretary of the Hawaiian homes commission, the director of the division of forestry of the board of commissioners of agriculture and forestry, the chairman of the land resources committee of the Hawaii farm bureau federation, the manager-chief engineer of the Hawaii irrigation authority, the chairman of the water resources committee of the Hawaii farm bureau federation, or the duly designated representatives of any of the foregoing, and three members appointed by the authority. This committee shall carry on the investigative and coordinating functions of the authority in the field of land development.

(d) Credit development advisory committee. There shall be a credit development advisory committee whose members shall be the territorial treasurer, the secretary of the farm loan board of Hawaii, the chairman of the credit and taxation committee of the Hawaii farm bureau federation, the chairman of the appropriate committee of the chamber of commerce of Honolulu, or the duly designated representative of any of the foregoing, and three members appointed by the authority. This committee shall carry on the investigative and coordinating functions of the authority relating to credit development.

**Sec. 5088. Recommendations to other agencies; public hearings, reports to governor.** On the basis of submitted reports, and such other information as the authority collects, it shall, as it deems desirable for the best coordination and effectiveness of economic development in the Territory, make recommendations in writing to any of the agencies of the territorial government. While formulating

such recommendations, the authority shall invite the heads of the agencies concerned to meet with it to discuss them.

If, after a period of sixty days from the delivery of a recommendation, the authority finds that its recommendation has been rejected or has not received what it considers appropriate action on the part of the agency concerned, it shall hold a public hearing for thorough exposition of points of disagreement. At the hearing the head of the agency concerned shall be given an opportunity to state its case for not adopting and implementing the recommendation of the authority.

Upon the conclusion of the hearing, if the authority still concludes that its recommendation should be adopted in pursuance of the objectives of this chapter, but that the agency concerned has failed to take action implementing it to the authority's satisfaction, within thirty days after such hearing, or such longer period as the authority may set, the authority shall report its findings to the governor, who shall determine whether or not the purposes of this chapter would best be fulfilled by implementation of the authority's recommendation to the agency concerned. If the governor determines that such implementation is required, he shall cause the agency to comply with the recommendation; in any case he shall notify both the agency and the authority of his decision in writing.

**Sec. 5089. Cooperation with other agencies; acceptance and spending of grants; dissemination of findings.** The authority shall seek the widest possible cooperation, under law, with public and private agencies of the federal government, in achieving the purposes of this chapter. It may accept funds from individuals and other agencies, public and private, and agree to such lawful and reasonable conditions and terms as the donor of funds may require, all toward the end of furthering the purposes of this chapter. Such funds may be expended by the authority on vouchers approved by its chairman or acting chairman, or may be transferred to other territorial agencies for expenditure by them in effectuating the purposes of this chapter.

To the end of stimulating cooperation toward the economic development of Hawaii and of disseminating useful information which it obtains, the authority shall from time to time publish the results of its research, its findings and recommendations.

**Sec. 5090. Reports.** The authority shall at least once a year, not later than February 15, file a report of its activities for the preceding year with the governor, and shall report to the legislature in every year in which it meets in regular session. Such reports may include recommendations with reference to additional legislation or other action that may be necessary to carry out the purposes of this chapter.

Upon the written request of the authority, approved by the governor, any territorial or county agency engaged in activities relating to economic development shall supply to the authority such reports on these activities as the authority deems necessary to the effectuation of its functions.

**Sec. 5091. Authority successor to industrial research advisory council.** The economic planning and coordination authority shall succeed to all powers, duties and functions of the industrial research

advisory council, set forth in Act 122, Session Laws of Hawaii 1949 (as amended by Act 217, Session Laws of Hawaii 1951 and Act 240, Session Laws of Hawaii 1953). The industrial research advisory council is hereby abolished and any appropriation of funds therefor cancelled.

All references in said Acts 122, 217 and 240 to the 'industrial research advisory council' and to 'the council' are hereby amended to read the 'economic planning and coordination authority' and 'the authority', respectively.

All funds and property of the industrial research advisory council, and the territorial planning board, including, but not limited to, equipment, supplies and records, are hereby transferred to the authority."

**SECTION 2. Appropriation.** There is hereby appropriated from the general revenues of the Territory not otherwise appropriated the sum of \$400,000 to the economic planning and coordination authority for the purpose of making grants or otherwise effectuating the purposes of this Act during the biennium ending June 30, 1957.

Expenditures by the authority, except as otherwise provided by this Act, shall be made on the basis of vouchers approved by its chairman, or by another member or employee so authorized by the authority.

**SECTION 3. Effective date.** This Act shall take effect on July 1, 1955.

(Approved June 15, 1955.) **S.B. 340, Act 264.**

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## ACT 265

**An Act Authorizing the County Attorney to Appoint an Investigator, and Prescribing His Powers and Duties.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** (a) Each of the county attorneys of the counties of Hawaii, Kauai and Maui is hereby authorized to appoint an investigator, in accordance with the civil service and classification laws, and for which appropriations have been made by the respective board of supervisors.

(b) Any investigator so appointed by each county attorney shall have all the powers and privileges of a police officer of the county.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 15, 1955.) **S.B. 871, Act 265.**

**ACT 266**

**An Act Providing a Monthly Bonus for Certain Pensioners and Making an Appropriation therefor.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Every pension payable under the employees' retirement system of the Territory of Hawaii or payable under or pursuant to any law of the Territory, or by any county or independent public board or commission, shall be increased by a bonus for each month for the period commencing July 1, 1955 and ending June 30, 1957, any provision in any law to the contrary notwithstanding, as follows: Twenty-five dollars (\$25.00) per month, **provided** that if the pension as increased by said bonus does not equal one hundred dollars (\$100.00) per month, the bonus shall be further increased as will bring the total of the pension and bonus to one hundred dollars (\$100.00) per month; **provided**, further, that where the dependents of a deceased pensioner are receiving pensions by reason of his death, the total only of all amounts paid to such dependents shall be so increased, and the increase herein provided for shall be shared by them in proportion to the respective amounts of pension receivable by them exclusive of this increase.

**SECTION 2.** The board of trustees of the employees' retirement system of the Territory is hereby authorized and directed to pay the bonus to all territorial pensioners who are not under the retirement system, and the appropriate officer of each county, and each independent board or commission hereby affected, is hereby authorized and directed to pay the bonus granted to pensioners whose pensions are payable by the respective counties, boards and commissions, all such payments to be made from allotments pursuant to section 3 of this Act, and all such boards, commissions and officers are hereby directed to certify to the director of the bureau of the budget, promptly upon the enactment of this Act, the amounts required to meet such bonus payments to and including December 31, 1955, and to similarly certify the amounts required every six months, as directed by the bureau of the budget.

**SECTION 3.** There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of \$1,635,000.00, to pay the bonus provided for by this Act. Such appropriation shall be allotted by the director of the bureau of the budget, with the approval of the governor, to the several boards, commissions and officers required to make such payments, except where there is a specific provision for payment of the bonus from other funds, and in the case of the counties the moneys so allotted shall be paid into the county treasuries and held in special funds solely for such purpose.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 17, 1955.) **H.B. 496, Act 266.**

## ACT 267

An Act for the Relief of Certain Persons, Firms and Corporations on Account of Overpayment of Taxes and Other Claims against the Territory. and Providing Appropriations therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The following respective sums of money are hereby appropriated out of the general revenues of the Territory of Hawaii for the purpose of reimbursing the following named persons, firms and corporations, for overpayment of taxes or for taxes illegally collected, or on account of other claims against the Territory, in the amounts set opposite their respective names:

ACKERMAN, W. D. ....	\$ 12.64
Refund of real property tax overpaid for year 1951.	
AH HO, EMMA .....	50.00
Damage during improvement of Farrington Avenue, Molokai, by the Territorial Highway Department.	
(Not Approved S.W.K.)	
AHAHUI, KAAHUMANU .....	551.34
For overpayment of real property tax for year 1953.	
AKI, HENRY K. ....	259.85
Refund of real property taxes paid for years 1947 to 1953, inclusive.	
ALEXANDER YOUNG HOTEL .....	32.46
Room and board for Judge M. Sapienza, 3 days while serving as substitute judge.	
ANDREW KING POST NO. 3850, VETERANS' OF FOREIGN WARS, AMERICAN LEGION .....	177.70
Refund on real property taxes paid in July and November, 1954.	
(Not Approved S.W.K.)	
ANDERSON, RUSSELL T. ....	111.61
Refund of compensation-dividends taxes paid for years 1943 to 1949.	
ASANO, RODNEY .....	1,664.50
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
ASATO, MR. & MRS. SEIKICHI .....	175.00
Reimbursement for storm and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
AWAI, HENRY K. ....	7,316.57
Compensation for hours of overtime work during Nov- ember 1, 1947 to August 15, 1949, inclusive.	
(Not Approved S.W.K.)	
BRAZIL, ABEL .....	2,599.45
Refund for losses of cows sustained during quarantine.	

CABRAL, MANUEL RITA .....	1,149.50
Storm damage at Kalihi Valley Homes area. (Not Approved S.W.K.)	
CABRINDING, JENNIE .....	50.00
Damage during improvement of Farrington Avenue Molokai, by the Territorial Highway Department. (Not Approved S.W.K.)	
CACHOLA, EUGENIO M. ....	10.00
Refund of compensation tax overpaid for year 1950.	
CAMINOS, WILLIAM P. ....	175.00
Compensation for holiday work during years 1946, 1947, 1948. (Not Approved S.W.K.)	
CAMPOS, HELEN .....	13,679.89
Refund for expenditure made and losses suffered by reason of failure of Hawaiian Homes Commission to honor certain commitments. (Not Approved S.W.K.)	
CAMPOS, LAWRENCE W. ....	10,000.00
Reimbursement for loss of certain hogs quarantined upon arrival on or about April 27, 1949. (Not Approved S.W.K.)	
CHANG, PETER Y. T. ....	1,200.00
Refund of moneys withheld as liquidated damages. (Not Approved S.W.K.)	
CHIEF CLERK'S OFFICE .....	107.87
Replacing cash deposited by Maluhia Home to credit of several small estates, stolen from desk of court em- ployee.	
CHINEN, HIDEO .....	4.44
Refund of compensation tax overpaid for year 1951.	
CHOY, DAI MON .....	415.00
Reimbursement for storm and flood damages suffered at Pearl City, Oahu, in November 1954 and February, 1955. (Not Approved S.W.K.)	
CHOY, KWAI YEU .....	21.30
Refund of compensation tax overpaid for year 1950 (1st quarter).	
DAMON, S. M. TRUST ESTATE .....	22.44
Refund of real property taxes overpaid for years 1947 to 1952, inclusive.	
DEATON, CLYDE E. ....	1,246.50
Reimbursement for storm and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955. (Not Approved S.W.K.)	
FERNANDES, ANTONE & LOUISE S. ....	65.24
Refund of net income tax overpaid in 1952.	



FOSTER, GLORIA W. ....	410.03
Salary adjustment for periods 3/23/42 to 8/2/43, incl., and 8/28/44 to 6/30/45, inclusive.	
(Not Approved S.W.K.)	
FUJIKAWA, SATOSHI .....	1,151.75
Reimbursement for storm and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
FUJIOKA, MITSURU .....	125.45
Refund of real property tax overpaid for 1952.	
(Not Approved S.W.K.)	
GERNER, NORMAN .....	8.43
Refund of real property taxes overpaid for years 1951 and 1952.	
HALE MOHALU .....	1,311.99
Patients and staff members of Hale Mohalu Department of Health, for losses sustained by them for damage to, or loss of, personal property and effects as a result of the heavy rains on November 28 and 29, 1954, which flooded and devastated the premises of Hale Mohalu.	
PATIENTS:	
AHLO, LAVERNE .....	\$ 3.50
BESAYA, BACILIO .....	9.90
BREDE, DAVID .....	5.00
CAABAY, MACARIO .....	7.25
CABADING, MARIA .....	2.25
CHAVES, BEVERLY .....	12.95
CHEE, MAMO LUM .....	4.00
DAWSON, STEPHEN .....	128.50
DECALON, SACARIAS .....	40.00
GALARSE, FRANCES .....	9.00
HANAKEAWE, SOLOMON .....	5.00
KAAIMAKA, DIONYSIA .....	3.00
KAANAPU, HENRY .....	17.00
KAHAULEILO, WILLIAM .....	1.00
KAHIKINA, SAMUEL .....	10.00
KANEAPUA, LAWRENCE .....	12.00
KEKAHUNA, JOE .....	1.50
KELLEY, BERNICE .....	45.00
KIHEI, WALTER .....	13.20
KUNUKAU, KUULEI .....	30.45
LEONG, FRANK .....	3.65
MAHELONA, JONAH .....	4.50
MALO, EARL .....	36.00
MATSUGORO, FRED .....	10.25
MOMI IMPROVEMENT CLUB CANTEEN .....	10.34
NAKOA, RUBEN .....	54.00
PALEA, FRANCIS .....	14.00
PALEA, NORBERT .....	20.80
PUAHALA, EDITH .....	30.00
PUPULE, RICHARD .....	1.00

SCHOOL HOBBY SHOP CLASS .....	9.36
SILVA, FRANK .....	2.00
TIMBREZA, ADELO .....	1.89
WHANG, SUNG .....	6.00
WILSON, ROBERT .....	27.00
STAFF MEMBERS:	
AH KEE, KALANI .....	58.00
BRYANT, JULIA .....	36.00
CYPHER, DORCAS .....	105.95
DE SOUZA, HELEN .....	105.50
DIAS, MYRTLE .....	5.00
DUPONTE, MYRA SUTTON .....	21.50
EZERA, MARY .....	14.50
KAAIHUE, CECILIA .....	11.75
KONG, RACHEL .....	27.00
POTMORE, MARY .....	304.00
RATH, RUTH .....	31.50
HAMADA, et al, EDWARD J. ....	565.68
Refund of real property taxes overpaid for years 1952 and 1953.	
HAMADA, THOMAS K. ....	12.90
Refund of compensation and dividends tax overpaid for the year 1944.	
HAWAIIAN TELEPHONE COMPANY .....	93.35
Damages to open wire lead on Pole 76, Kunia Road, Wahiawa, caused by Hawaii National Guard plane.	
HEPA, GEORGE & FLORENCE M. ....	23.95
Refund of net income taxes overpaid for years 1949 and 1950.	
HEU, EDSON S. ....	8.70
Refund of compensation-dividends tax overpaid for year 1950.	
HIGA, THOMAS S. ....	150.00
Outlawed territorial warrant.	
HIGA, WILLIAM Y. ....	105.45
Refund of real property tax paid for 1952. (Not Approved S.W.K.)	
HO, JR., ROBERT K. ....	10.85
Refund of compensation-dividends tax overpaid for 1946.	
HONG, MR. & MRS. MICHAEL .....	650.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955. (Not Approved S.W.K.)	
HONOLULU RAPID TRANSIT COMPANY, LTD. ....	1,772.18
Refund of public utility taxes overpaid for years 1947 to 1950, inclusive.	
HOTEL IMPORT COMPANY .....	1,831.89
Payment of unpaid merchandise and equipment re-	

ceived in the years 1946, and 1948 to 1951, inclusive.	
HOWARD, VOLNEY, A. K. & MARGUERITE .....	2,182.54
Reimbursement of payments made, including interest, toward purchase of Residence Lot No. 56 at Hilo, Hawaii, damaged beyond any possible use for which it was intended, to-wit, erection of a residence on lot, by the tidal wave of 1946.	
INOUE, KENZO .....	1,470.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
ISHIHARA, MR. & MRS. CLARENCE M. ....	3,068.94
Damages sustained by them as the result of certain flood conditions.	
(Not Approved S.W.K.)	
ISHIKURO, AYAME IKEDA .....	54.35
Refund of real property taxes overpaid for years 1948 to 1951, inclusive.	
KAHOKUOLUNA, ALICE .....	200.00
Damage during improvement of Farrington Avenue, Molokai, by the Territorial Highway Department.	
(Not Approved S.W.K.)	
KAHULUI RAILROAD COMPANY .....	250.00
Payment in lieu of territorial special expendable fund warrant No. 67159 dated 1/15/50 outlawed and escheated to the general fund.	
KALawe, DAVID .....	95.00
Refund of payment for hospital and doctor bills resulting from an accident sustained by daughter on Washington Intermediate School premises.	
(Not Approved S.W.K.)	
KANAHELE, FRANCIS H. & ANNIE A. ....	30.66
Refund of real property taxes overpaid for years 1950 and 1951.	
KANAMU, SAMUEL K. ....	50.00
Damage during improvement of Farrington Avenue, Molokai, by the Territorial Highway Department.	
(Not Approved S.W.K.)	
KATO, KEICHI .....	285.24
Refund of gross income taxes overpaid for years 1943 to 1947, inclusive.	
KAUKANI, RUFUS .....	52.92
Refund of compensation-dividends tax paid for year 1950.	
KAWANA, GEORGE .....	1,079.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November 1954 and February, 1955.	
(Not Approved S.W.K.)	

KOREAN NATIONAL ASSOCIATION .....	4,989.46
Refund of real property taxes for years 1951 to 1954, inclusive.	
(Not Approved S.W.K.)	
KU, ISSIA .....	50.00
Damage during improvement of Farrington Avenue, Molokai, by the Territorial Highway Department.	
(Not Approved S.W.K.)	
KUEFFER, RUTH .....	720.00
Differential pay due her as supervisor of home economic cadet teachers at Washington Intermediate School for the years 1951-52, 1952-53 and 1953-54.	
LAM, CHONG HEE aka LUM, CHONG HEE WONG .....	103.81
Refund of net income taxes paid for years 1949 to 1953, inclusive.	
LEE, RANDOLPH N. ....	905.46
Refund of interest and taxes paid on Auwaiolimu Lot 1-A.	
(Not Approved S.W.K.)	
LEMON, EVA V. ....	64.39
Refund of real property taxes overpaid for the years 1940 to 1953, inclusive.	
MASUO, MR. & MRS. JACK .....	11,977.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
MATSUSAKI, EDWARD M. ....	33.76
Refund of real property tax overpaid for year 1951.	
MAUNUPAU, JOSEPH K. ....	380.00
Reimbursement for storm, and flood damages, suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
McCABE, JOSEPH PATRICK .....	4,000.00
County Fireman shot by Japanese, Dec. 7, 1941.	
(Not Approved S.W.K.)	
McCANDLESS, L. L. TRUST ESTATE .....	436.63
Refund of real property taxes overpaid for years 1939 to 1952, inclusive.	
MEDLIN, WILLIAM & ETHEL .....	11,634.05
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
MINICHELLO, JOHN J. ....	7.21
Refund of net income tax overpaid for calendar year 1942.	
MIURA, MR. & MRS. TAMOTSU .....	700.00
Reimbursement for storm, and flood damages suffered	

at Pearl City, Oahu, in November, 1954 and February, 1955.	
	(Not Approved S.W.K.)
MIYAMOTO, NAGAICHI, ET AL. ....	1,613.00
Overpayment of property tax.	
	(Not Approved S.W.K.)
MOIR, GERTRUDE M. F. ....	9.68
Refund of net income tax overpaid for year 1952.	
MORSE, ERNEST ....	24.52
Refund of real property tax overpaid for year 1952.	
NAEOLE, EDDIE ....	65.00
Damage during improvement of Farrington Avenue, Molokai, by the Territorial Highway Department.	
	(Not Approved S.W.K.)
NATIVE DAUGHTERS OF HAWAII, MAUI AUXILIARY NO. 3 ....	187.03
NAWAA, HELEN G. ....	200.00
Refund of compensation-dividends taxes paid for years 1948 to 1952, inclusive.	
NEVES, MARY F. ....	245.38
Refund of real property taxes paid for years 1938 to 1951, inclusive.	
OLIVAL, ALFRED ....	3,500.00
Injuries received while under Oahu prison custody.	
PARADISE OF THE PACIFIC, LTD. ....	120.00
Binding 6 volumes of minutes, June, 1953.	
PERRY-FISKE, ANNA L. ....	1,353.00
Refund on rental paid under Territorial General Lease Nos. 1893 and 1894, between October 1, 1952 and August 23, 1953.	
PETERS, MARION ....	75.00
Damage during the construction of Farrington Avenue by Territorial Highway Department.	
	(Not Approved S.W.K.)
PHILLIPS, JOHN B. ....	740.50
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
	(Not Approved S.W.K.)
ROBELLO, CLARENCE ....	6,400.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
	(Not Approved S.W.K.)
ROSALEI APARTMENTS, INC. ....	125.00
Refund of foreign corporation license fees.	
SAPIENZA, JUDGE MAURICE ....	8.37
Reimbursement for expenses while serving as substitute judge.	

SCOTT, RALPH C. ....	221.82
Refund of compensation taxes erroneously paid for years 1949 to 1952, inclusive.	
SHIROMA, HIDEO ....	455.70
Refund of real property taxes overpaid for years 1948 to 1953, inclusive.	
SOGA, YASUTARO ....	284.99
Refund of compensation taxes withheld from monthly payments of pension paid claimant for years 1946 to 1952, incl.	
SOON, ARTHUR CHEONG - Administrator of estate of ALBERT HOON SOON, Deceased. ....	514.15
Salary due but not paid decedent for months of March, July, and August, 1950.	
STATE, LIMITED ....	1,695.67
Refund of gross income taxes overpaid for years 1951 to 1953, inclusive.	
TERLEP, MR. & MRS. HENRY M. ....	118.85
Refund of real property taxes overpaid for year, 1954.	
TILLEY, W. H. ....	6.43
One-half day vacation due but never submitted for payment by former Chief Clerk.	
TODD, FLORENCE Z. L. ....	37.82
Refund of real property taxes overpaid for years 1951 and 1952.	
TRUSTEES, B. P. BISHOP ESTATE ....	98.24
Refund of real property taxes erroneously assessed for years 1951 to 1953, incl.	
UEDA, MR. & MRS. TSUTOMU ....	886.50
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
VAN VALKENBURG, ALBERT W. & MABEL J. ....	36.00
Refund of net income tax overpaid for year 1952.	
VERGARA, STEVE R. ....	1,400.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	
WAIOLI RICE MILL, LTD. ....	108.76
Refund of moneys escheated to Territory by bank of Hawaii, Lihue-Kapaa branch.	
WATANABE, EDWIN M. ....	450.00
Reimbursement for storm, and flood damages suffered at Pearl City, Oahu, in November, 1954 and February, 1955.	
(Not Approved S.W.K.)	

WERY, EMILE .....	5.67
Refund of real property tax overpaid for year 1952.	
WILLERS, MRS. ERNEST H. ....	47.27
Refund of real property tax overpaid for year 1952.	
WILLIAMS, ROBERT T. ....	272.17
Refund of compensation-dividends taxes paid for years 1951 and 1952.	
WILSON, CHARLES A. ....	10.59
Refund of compensation tax paid for year 1951.	

SECTION 2. The sums hereinabove appropriated shall be paid upon warrants issued by the territorial auditor upon vouchers approved by the tax commissioner in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said auditor upon vouchers approved by the director of the bureau of the budget as to all other claims.

SECTION 3. Any amounts so paid which shall represent property taxes overpaid or illegally collected shall constitute an advancement to the county in which such taxes have been collected, and shall be repaid by the treasurer of the Territory into the general fund of the Territory by retaining the amount from the next collection of such taxes on account of such county and paying the same into said general fund.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 18, 1955.) H.B. 637, Act 267, except as to those items marked "Not Approved" and initialed by me, which items so marked and so initialed are hereby disapproved.

## ACT 268

An Act Relating to the Licensing and Regulation of Private Detectives, Guard-Watchmen-Patrolmen and Investigators, and Providing Penalties for the Violations thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Board of private detectives and investigators.** A board of three members shall be appointed by the governor to be known as the board of private detectives and investigators, and shall consist of the attorney general, the chief of police of any of the four counties and a member actively engaged in the business of private detectives and for the purpose of this Act hereinafter shall be referred to as the "Board". The function of this board shall be to examine applicants for private detective licenses, guard-patrolmen or watchmen's licenses, grant licenses, bring charges against licensees who violate the Act and to make reasonable rules and regulations relating to the conduct and operation of private detectives and investigators and patrolmen, watchmen, or guards, that will be in the best public interest.

SECTION 2. **Private detectives and detective agencies; license required.** No person shall engage in the business of private investigator or detective, represent himself to be, hold himself out as, list himself or advertise as a

private detective or investigator or as furnishing detective or investigating services, without first obtaining a license as a private detective from the board upon payment of a licensing fee of twenty-five dollars per annum, and no corporation, partnership or association shall engage in the business of private investigator or detective, represent itself to be, hold itself out as, list itself or advertise as a private detective or investigation agency or bureau or as furnishing detective or investigating services without first obtaining a license as a private detective agency from the board upon payment of a licensing fee of twenty-five dollars per annum.

**SECTION 3. Patrolman-watchman; licenses required.** No person, firm, partnership or corporation shall engage in the business of watchmen agency, guard or patrol agency for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise or to prevent the misappropriation or concealment of goods, wares, merchandise, money, bonds, stocks, documents, or other articles of value for hire or reward, or represent himself or itself to be, hold itself out as such without first obtaining a license as a watchman agency, guard or patrol agency, from the board upon payment of a licensing fee of twenty-five dollars per annum.

**SECTION 4. Qualifications for license.** The board may grant a private detective, watchman, guard or patrol agency license to any suitable citizen of the United States and to any suitable corporation, partnership or association making written application therefor. The applicant, if an individual, shall be not less than twenty-five years of age and of good moral character, and shall have had at least two year's experience as an investigator. Any licensee may employ as many agents, operatives and assistants as he deems necessary for the conduct of his business, **provided** such licensee shall be held responsible for the acts of those employees while conducting the business of the licensee and that no licensee shall employ any person who has been convicted of a felony or any offense involving moral turpitude.

**SECTION 5. Form of application for license.** Application for such license shall be made under oath on a form to be furnished by the board, which form may require a statement of the applicant's full name, age, date and place of birth, residence and business address, the business or occupation the applicant has engaged in for ten years immediately preceding the date of the filing of the application with names and addresses of employers, the date and place of any conviction of a felony or of any offense involving moral turpitude, and such information, including fingerprints of the applicant and such other information as the board may require to investigate the character, competency and integrity of the applicant. The application shall be accompanied by affidavits of three reputable citizens of the Territory residing in the locality where the applicant proposes to conduct his business, stating that the applicant is a person of good moral character.

**SECTION 6. License and term.** The license shall be granted for one year, and shall state therein the name and address of the principal office or place of business of the licensee, and the name under which the licensed business is to be conducted.

**SECTION 7. Association with government not to be implied.** No licensee shall use any designation or trade name which implies any associa-



tion with any municipal, county, state or territorial government or the federal government, or any agency thereof; nor shall a licensee or employee of any licensee wear any badge or uniform capable of being associated with the badge or uniform of any government law enforcement organization.

**SECTION 8. Policy and standards.** It is the purpose of this Act to protect the general public from unlawful and unethical conduct and operation of the business of private detectives and investigators. Any license may be revoked by the board for good cause shown, **provided** 30 days notice shall be given by registered mail to the last known business address of the licensee, requesting that said licensee appear before the board to show cause why said license should not be revoked. Any licensee whose license has been revoked can file an appeal in the civil courts and said license shall remain in force pending such appeal.

**SECTION 9. Bond.** Each licensee shall give to the board a bond in the sum of five thousand dollars, executed by the applicant as principal and by a surety company authorized to do business in the Territory as surety. The bond shall be in such form as the board may prescribe, conditioned upon the honest conduct of the business of the licensee, and the right of any person injured by the wilful, malicious or wrongful act of the licensee to bring in his own name an action on the bond.

**SECTION 10. Exemption of credit rating agencies.** The provisions of this chapter shall not apply to any person, firm, company, partnership or corporation or any bureau or agency whose business is exclusively, the furnishing of information as to the business and financial standing and credit responsibility of persons, firms or corporations, or as to personal habits and financial responsibility of applicants for insurance, indemnity bonds or commercial credit, or a person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, or an attorney at law in performing his duties as such attorney at law.

**SECTION 11. Penalties.** Any employee or former employee of a licensee who divulges any information gained by him in the course of such employment except as his employer directs or as required by law, or who wilfully makes a false report to his employer, shall be fined not more than one hundred dollars or imprisoned not more than six months or both. Any person who violates any other provision of this Act or any rule or regulation adopted by the board under this Act shall be fined not more than five hundred dollars or imprisoned not more than one year or both.

**SECTION 12. Fees; appropriation.** All fees received by the board under the provisions of this Act shall be deposited in a special fund in the territorial treasury. All funds so deposited are hereby appropriated for the purpose of paying all expenses incurred by the board in the administration of this Act. The unexpended and unencumbered balance in said special fund at the end of each biennium shall be transferred to the general fund of the Territory of Hawaii.

**SECTION 13. Separability.** If any phrase, clause, sentence, subsection, section, provision or part of this Act, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances shall not be affected. The legislature hereby declares

that it would have passed this Act, and each phrase, clause, sentence, subsection, section, provision or part thereof, irrespective of the fact that any one or more other phrases, clauses, sentences, subsections, provisions or parts be declared unconstitutional or invalid.

SECTION 14. Sections 7049 to and including 7053 of the Revised Laws of Hawaii 1945 are hereby repealed.

SECTION 15. This Act shall take effect July 1, 1955. All persons, partnerships or corporations engaged in the business of private detective, private investigator guard-patrolman or watchman agency on such effective date shall comply with all provisions of this Act by August 1, 1955.

(Approved June 20, 1955.) H.B. 1113, Act 268.

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ACT 269

An Act Relating to the Bureau of Crime Statistics and the Bureau of Civil Identification of the Territory of Hawaii, and Making an Appropriation therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There are hereby appropriated from the general revenues of the Territory, for the bureau of crime statistics and the bureau of civil identification of the Territory of Hawaii created by chapters 23.01 and 23.02 of the Revised Laws of Hawaii 1945, the following amounts for the biennium ending June 30, 1957, for the following respective purposes:

A. Personal Services .....	\$37,510.00
B. Current Expenses .....	1,105.00
C. Equipment .....	559.00
Total .....	\$39,174.00

SECTION 2. This Act shall take effect upon July 1, 1955.

(Approved June 20, 1955.) H.B. 1277, Act 269.

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ACT 270

An Act to Amend Chapter 15 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Employees' Retirement System of the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 710 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending subparagraph (b) of paragraph 2 thereof, so that the same shall read as follows:

"(b) Secured bonds. Bonds and notes secured by first mortgages or deeds of trust on unencumbered improved real estate owned in fee simple worth at least sixty-five per centum more than the respective amount of the first mortgages or deeds of trust; **provided** that no

building shall be included in such value beyond the amount of the insurance thereon for which a policy shall have been transferred to the board, such policy to be kept in force as long as the loan continues. Real property shall not be deemed to be encumbered within the meaning of this paragraph by reason of the existence of instruments reserving mineral, oil, timber or similar rights, rights of way, sewer rights, rights in walls, nor by reason of any liens for taxes or assessments not yet due, or on account of liens not delinquent for community recreational facilities, or for the maintenance of community facilities, not by reason of building restrictions or other restrictive covenants common to the community in which the property is located, nor by liens for service and maintenance of water rights where not delinquent, nor when such real property is subject to lease under which rents or profits are reserved to the owner if in any event the security for the loan or investment is a first lien upon the real property."

SECTION 2. Section 710 of the Revised Laws of Hawaii 1945, as amended by Act 297 of the Session Laws of Hawaii 1949, is hereby further amended by inserting the word "twenty" in place of the word "five", as the same appears in line fifteen of subparagraph "(L)" of subsection (2) of said section 710.

SECTION 3. Subsection 11 of section 708 of the Revised Laws of Hawaii, 1945, as amended, is further amended by amending the first sentence thereof to read as follows:

"11. Optional allowances. Any member may elect to receive his benefit in a retirement allowance payable throughout his life or he may elect to receive the actuarial equivalent, at that time, of his retirement allowance in a lesser retirement allowance, payable throughout life with the provision that:"

SECTION 4. This Act shall take effect upon its approval.

(Approved June 20, 1955.) S.B. 483, Act 270.

## ACT 271

An Act to Amend the Urban Redevelopment Act, Chapter 121.01 of the Revised Laws of Hawaii 1945 as Amended (Comprising Act 379 of the Session Laws of 1949, as Amended by Act 244 of the Session Laws of 1951 and by Acts 209 and 210 of the Session Laws of 1953), by Authorizing Redevelopment Agencies to Undertake Additional Activities for the Elimination and for the Prevention of the Development or Spread of Slums and other Blight, including Functions with Respect to Rehabilitation and Conservation for the Restoration and Removal of Blighted, Deteriorated, or Deteriorating Areas; to Provide that all of the Rights, Powers, Privileges, and Immunities of Public or Private Bodies or Agencies Applicable to Redevelopment Projects shall be Applicable with Respect to such Additional Activities; Authorizing the Preparation by a County of a Workable Program for Urban Renewal; Authorizing any County Announcing its Intention to Devise and Adopt such a

Workable Program to Create the Office of Urban Renewal Coordinator, Prescribing Qualifications for such Officer, and Providing for the Appointment, Term and Removal, and Prescribing the Powers, Duties and Functions, of such Office; and Authorizing the County to Cause the Repair, Closing, and Demolition of Dwellings Unfit for Human Habitation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 121.01 of the Revised Laws of Hawaii 1945, as amended (comprising Act 379 of the Session Laws of 1949, as amended by Act 244 of the Session Laws of 1951 and by Acts 209 and 210 of the Session Laws of 1953) is hereby amended in the following respects:

(a) The title of said chapter 121.01, as said title is set forth on page 328 of the Session Laws of 1949, is amended to read as follows:

**"CHAPTER 121.01. URBAN REDEVELOPMENT AND RENEWAL LAW".**

(b) All those portions of said chapter 121.01, as amended, which were enacted prior to the regular session of 1955 of the Legislature of the Territory of Hawaii are hereby designated as "PART I" of said chapter 121.01, and may be cited as "PART I of said chapter 121.01" of said Revised Laws, or as "PART I of the Urban Redevelopment and Renewal Law," or as the "Urban Redevelopment Act." Section 6195.01 of said chapter 121.01 shall be deemed to refer to said Part I of chapter 121.01.

(c) By amending subsection 4 of **section 6195.02** thereof by deleting from the second line of said subsection the word "lease".

(d) By amending **section 6195.03** thereof as amended, by adding at the end thereof a new subsection to be numbered and to read as follows:

"17. 'Urban area' shall not be deemed to include any place the population of or in which would not be classified as 'urban' by the bureau of the census of the United States department of commerce, pursuant to the definitions, policies and practices established and followed by said bureau for the 1950 United States census of population for Hawaii."

(e) By amending subsections c and d of **section 6195.04** thereof to read as follows:

"c. No member or employee of the agency shall acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned to be included in any such project, nor shall he have any interest, direct or indirect, in any contract or proposed contract, for materials or services to be furnished or used in connection with any such project. If any such member or employee owns or controls an interest, direct or indirect, in any property included or planned to be included in any redevelopment project, he shall immediately disclose the same in writing to the agency and such disclosure shall be entered upon the minutes of such agency. Failure to so disclose such interest shall constitute misconduct sufficient to warrant removal.

d. Any member of a redevelopment agency may be removed for any inefficiency, neglect of duty or misconduct in office by any two of the following: the governor, the mayor or chairman of the board, and the judge authorized to make appointments to such redevelopment

ment agency, after notice and hearing (1) before them or any two of them, or (2) before any person designated by any two of them to hold such hearings and after such person shall have reported his findings and recommendations to them."

(f) By amending paragraph 3 of subsection (e) of section 6195.04 thereof to read as follows:

"3. To appoint a manager, whose position shall be exempt from the requirements of chapters 2 and 3 of the Revised Laws, and who shall have such qualifications as the agency shall deem necessary and shall have full power to administer the affairs of the agency, subject to the direction and approval of the agency. He shall receive such salary as the agency may provide, and shall hold office at the pleasure of the agency. The manager shall, subject to the approval of the agency, have power to appoint, suspend and discharge such other employees, subordinates and assistants as may be necessary for the proper conduct of the business of the agency. All such appointments, suspensions or removals shall be made in conformity with the applicable provisions of chapters 2 and 3 of the Revised Laws."

(g) By amending paragraph 7 of subsection (e) of said section 6195.04 by adding thereto a new paragraph to read as follows:

"Hearings and trial upon any issue raised in any action, suit or proceeding in any court involving the construction, interpretation, or validity of this chapter, or involving the legality or validity of any action taken or proposed to be taken under or pursuant to this chapter, whether by way of injunction, suit for declaratory judgment, submission on agreed statement of facts, or otherwise, shall be given precedence in both the lower courts and the supreme court, and an interlocutory appeal to the supreme court shall lie from any decision of any lower court holding valid or invalid any provision of this chapter, or any contract made or proposed, or other action taken or proposed to be taken, under or pursuant to this chapter."

(h) By amending subparagraphs (d) and (f) of paragraph 11 of subsection (e) of said section 6195.04 to read, respectively, as follows:

"(d) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with the federal government or any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this Part I, including the furnishing of funds or other assistance in connection with projects being or to be undertaken pursuant to this Part I."

"(f) Reimburse the agency for lands acquired and transferred or dedicated by the agency for public purposes."

(i) By amending paragraph 19 of subsection (e) of said section 6195.04 by deleting therefrom the words "and to the authority".

(j) By substituting for the words "Except as provided by subsection 7 of this section, in" at the beginning of subsection 3 of section 6195.05 thereof, the "In".

(k) By amending the first five lines, down to and including the semi-colon, of section 6195.06 thereof to read as follows:

"Redevelopment corporations; how created. A redevelopment corporation may be created in the manner provided by chapter 155 of the Revised Laws of Hawaii 1945, as amended, with the following

additional requirements and special limitations to be included in the Articles of Association.”

(l) By amending subsection 10 of said **section 6195.06** by deleting from the first line thereof the words “The Articles may provide” and substituting therefor the words “A provision”.

(m) By amending **section 6195.21** thereof by deleting from the eleventh and twelfth lines thereof the words “(hereinafter called the basic year)”.

(n) Said chapter 121.01 is further amended by adding thereto, at the end thereof, a new part numbered II and additional sections, reading as follows:

## **“PART II. URBAN RENEWAL.**

**Sec. 6195.30. Findings.** It is hereby found and declared that (a) there exist in urban areas of the Territory slum, or other blighted, and deteriorated or deteriorating areas which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of the Territory, and the findings and declarations heretofore made in this chapter with respect to slum and other blighted areas are hereby affirmed and restated, (b) certain slum, or other blighted, or deteriorated or deteriorating areas, or portions thereof, may require acquisition and clearance, as provided in this chapter, since the prevailing conditions of blight or deterioration or decay may make impracticable the reclamation of the area by conservation or rehabilitation, but other areas or portions thereof may, through means provided in this chapter, as amended, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented, and to the extent feasible, salvable slum and other blighted, deteriorated or deteriorating areas should be conserved and rehabilitated through voluntary action and the regulatory process and (c) all powers conferred by this chapter, as amended, are for public uses and purposes for which public money may be expended and such other powers exercised, and the necessity in the public interest for the provisions of this chapter, as amended, is hereby declared as a matter of legislative determination. A county, to the greatest extent it determines to be feasible in carrying out the provisions of this chapter, as amended, shall afford maximum opportunity, consistent with the sound needs of the urban area as a whole, to the rehabilitation or redevelopment of areas by private enterprise.

**Sec. 6195.31. Urban Renewal Projects.** In addition to its authority under any other section of this chapter, an agency is hereby authorized to plan and undertake urban renewal projects within urban areas. As used in this chapter, an urban renewal project may include undertakings and activities for the elimination (and for the prevention of the development or spread) of slums, or other blighted, or deteriorated, or deteriorating areas and may involve any work or undertaking for such purpose constituting a redevelopment project or any rehabilitation or conservation work, or any combination of such undertaking or work. For this purpose, ‘rehabilitation or conservation work’ may include (1) carrying out plans for a program of

voluntary or compulsory repair and rehabilitation of buildings or other improvements; (2) acquisition of real property and demolition, removal, or rehabilitation of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, or to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; (3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal projects; and (4) the disposition, for uses in accordance with the objectives of the urban renewal project of any property or part thereof acquired in the area of such project; **provided** that such disposition shall be in the manner prescribed in this chapter for the disposition of property in a redevelopment project area under Part I.

**Sec. 6195.32. Urban Renewal Plan.** Any urban renewal project undertaken pursuant to the preceding section shall be undertaken in accordance with an urban renewal plan for the area of the project. As used in this chapter, an 'urban renewal plan' means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the master plan for the county as a whole; or if there be no master plan for the county as a whole, then to the master plan for the urban area as a whole of which the urban renewal project area constitutes a part; and (2) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the area of the urban renewal project, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses; improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements. An urban renewal plan shall be prepared and approved pursuant to the same procedure as provided in this chapter with respect to a redevelopment plan, except as otherwise specifically provided in this Part II.

**Sec. 6195.33. Powers with respect to Urban Renewal.** An agency shall have all the powers necessary or convenient to undertake and carry out all urban renewal plans and urban renewal projects, including the authority to acquire and dispose of property, to issue bonds and other obligations, to borrow and accept grants from the federal government or any other source and to exercise the other powers which this chapter confers on an agency with respect to redevelopment projects. For the purposes of this Part II in connection with the planning and undertaking of any urban renewal plan or urban renewal project, the agency, the county and all public and private officers, agencies, and bodies shall have all the rights, powers, privileges, and immunities which they have with respect to a redevelopment plan or redevelopment project, in the same manner as though all of the provisions of Part I of this chapter applicable to a redevelopment plan or redevelopment project were therein expressly made

applicable to an urban renewal plan or urban renewal project; and for such purposes as used in said Part I and in this Part II elsewhere than in this section, except where the context clearly indicates such meaning to be inappropriate or as otherwise expressly provided in this section: (a) The word 'redevelopment' (elsewhere than in subsection 13 of section 6195.03) shall mean 'urban renewal'; (b) the word 'slum' and the word 'blighted' (elsewhere than in subsection 3 of this section 6195.03) shall mean 'blighted, deteriorated or deteriorating'; **provided** (1) that nothing in this Part II shall be deemed to change the meaning of the terms 'local redevelopment agency' or 'agency', or the corporate name of any local redevelopment agency; and (2) that the finding by the board that the project area is a blighted area prescribed by paragraph 7 of subsection (e) of section 6195.04 shall not be required. In addition to the surveys and plans which an agency is otherwise authorized to make, an agency is hereby specifically authorized to make (i) plans for carrying out a program of voluntary repair and rehabilitation of buildings and improvements, and (ii) plans for the enforcement of laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements, and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements. The agency is authorized to develop, test, and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and other urban blight.

**Sec. 6195.34. Assistance to Urban Renewal by Counties and other Public Bodies.** Any county or other public body is hereby authorized (without limiting any provision in the preceding section) to do any and all things necessary to aid and cooperate in the planning and undertaking of an urban renewal project in the area in which such county or public body is authorized to act, including the furnishing of such financial and other assistance as the county or public body is authorized by this chapter to furnish for or in connection with a redevelopment plan or redevelopment project. An agency is hereby authorized to delegate to a county or other public body any of the powers or functions of the agency with respect to the planning or undertaking of an urban renewal project in the area in which such county or public body is authorized to act, and such county or public body is hereby authorized to carry out or perform such powers or functions for the Agency. Any public body is hereby authorized to enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with any other public body or bodies respecting action to be taken pursuant to any of the powers granted by this Part II, including the furnishing of funds or other assistance in connection with an urban renewal plan or urban renewal project.

**Sec. 6195.35. Urban Redevelopment Coordinator; Workable Program.** (1) Urban renewal coordinator; creation of office. In any county which shall, by resolution adopted in the manner required by law for an ordinance, announce its intention to devise and adopt a 'workable program' for urban renewal, pursuant to the provisions



of this chapter, such county may by ordinance create the office of urban renewal coordinator.

(2) **Workable Program. Definition.** 'Workable program' shall mean a program (including an official plan of action, as it exists from time to time for effectively dealing with the problem of urban slums and other blighted, deteriorated, or deteriorating areas within the community and for the establishment and preservation of a well-planned community with well-organized residential neighborhoods of decent homes and suitable living environment for adequate family life) for utilizing appropriate private and public resources to eliminate, and prevent the development or spread of, slums and other urban blight and deterioration, to encourage needed urban rehabilitation, to provide for the redevelopment of slum or other blighted, or deteriorated, or deteriorating areas or to undertake such of the aforesaid activities or other feasible activities as may be suitably employed to achieve the objectives of such a program.

(3) **Coordinator; appointment; term; removal.** Such urban renewal coordinator, hereinafter called the 'coordinator' shall be appointed by the mayor or chief executive officer of the county, with the approval of the board, for a term of four years, at a salary fixed by ordinance but not less than the lowest compensation paid any of the county cabinet officers provided for by section 6528 of said Revised Laws as amended, in the case of the city and county of Honolulu, or by section 6205 of said Revised Laws in the case of any other county. The office of coordinator shall not be subject to any law relating to civil service or classification. The coordinator shall be removed only for cause by the mayor or chief executive officer of the county with the approval of the board, after a hearing at which he shall be afforded a reasonable opportunity to be heard.

(4) **Qualifications.** In order to be qualified for appointment as such coordinator, the appointee: (a) shall be a citizen of the Territory with at least three years' residence in the county of his appointment; (b) shall have had at least five years of high level administrative experience; (c) shall have had a minimum of five years, or have had professional status, in a technical field related directly to urban renewal activities (such as experience in city planning; public administration; real estate brokerage, salesmanship, or management; housing research or surveys; the practice of law or engineering involving a very substantial experience in matters relating to land, and the like); (d) have a good working knowledge of local governmental programs relating to the improvement of housing and neighborhood conditions; (e) be a person of good reputation and proven ability in maintaining harmonious relations with people.

(5) **Duties and Powers.** The coordinator shall have power, and it shall be his duty, among other things:

(a) To prepare and submit to the board data and recommendations necessary or proper to enable the board to adopt a workable program best calculated to meet the requirements of this chapter and the needs of the county in relation to such workable program.

(b) To prepare and submit to the board from time to time additional data and recommendations for improving and rendering more

effective and efficient the workable program and its operation.

(c) To consult with any department, board, commission, agency, entity or officer of the Territory or any political subdivision thereof, or of the government of the United States, and with any other persons, firms, corporations, or private entities which might be affected by the workable program, or might contribute to the successful operation of the same, and to make recommendations to the board and to them for coordinating their functions and operations to the extent feasible in order to integrate all related activities into a unified program best calculated to achieve the objectives of urban renewal as set forth in this chapter and in the laws of the United States relating to urban renewal.

(d) To perform such functions and activities as may be necessary or proper for coordinating such activities and/or carrying out the workable program as adopted or amended from time to time by the board, and to perform such other related functions and activities as may be granted or authorized to be delegated to him by the board pursuant to this chapter.

(e) Notwithstanding any other provision of law to the contrary, the board may grant to the coordinator duties and powers concurrent with those of other county departments, boards, commissions, agencies or officers, necessary or proper, in the judgment of the board, to enable the coordinator to achieve the most effective coordination of said activities in the operation of the workable program; but nothing in this Act shall be deemed to impair or reduce the authority or jurisdiction of any existing department, board, commission, agency or officer.

**Sec. 6195.36. Ordinance Relating to Repair, Closing and Demolition of Dwellings Unfit for Human Habitation.**

(a) Whenever any county finds that there exists in urban areas in such county dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions, including those set forth in subsection (c) hereof, rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such county, power is hereby conferred upon such county to require or cause the repair, closing or demolition or removal of such dwellings in the manner herein provided. A 'dwelling' shall mean any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.

(b) Upon the adoption of an ordinance finding that dwelling conditions of the character described in subsection (a) hereof exist within a county, the board is hereby authorized to adopt ordinances relating to the dwellings within such county which are unfit for human habitation. Such ordinances shall include the following provisions:

(1) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances.

(2) That whenever a petition is filed with the public officer by

at least five residents of the county charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the public officer or his designated agent at a place therein fixed not less than ten days nor more than thirty days after the serving of said complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(3) That if, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which,

(A) if the repair, alteration or improvement of said dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county shall fix a certain percentage of such cost as being reasonable for such purpose), requires the owner, within the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

(B) if the repair, alteration or improvement of the said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the county shall fix a certain percentage of such cost as being reasonable for such purpose), requires the owner, within the time specified in the order, to remove or demolish such dwelling.

(4) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved, or to be vacated and closed.

(5) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished.

(6) That the amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining

shall be deposited with the clerk of the circuit court of the circuit in which the county is situated, by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

(c) An ordinance adopted by a county pursuant to this section shall provide that the public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of such county, or which have a blighting influence on properties in the area. Such conditions may include the following, without limitation; defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements. Such ordinance may provide additional standards to guide the public officer or his agents or employees in determining the fitness of a dwelling for human habitation.

(d) Complaints or orders issued by a public officer pursuant to an ordinance adopted under this section shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two consecutive weeks in a newspaper printed and published in the county, or, in the absence of such newspaper, in one printed and published in the Territory and circulating in the county in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the registrar of conveyances or, in the case of registered land, with the assistant registrar of the land court as provided in section 12669, and such filing of the complaint or order shall have the same force and effect as other *lis pendens* notices provided by law.

(e) Any person affected by an order issued by the public officer may petition the circuit court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause, **provided** that such petition is filed within sixty days after the posting and service of the order of the public officer. Hearings shall be had by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter a final order or decree in the proceeding. In all such pro-

ceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of compliance by such person with any order of the public officer.

(f) An ordinance adopted by the board may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this section, including the following powers in addition to others herein granted: (1) to investigate the dwelling conditions in the county in order to determine which dwellings therein are unfit for human habitation; (2) to administer oaths, affirmations, examine witnesses and receive evidence; (3) to enter upon premises for the purpose of making examinations, **provided** that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; (4) to appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of such ordinance; and (5) to delegate any of his functions and powers under such ordinance to such officers, agents and employees as he may designate.

(g) The board adopting an ordinance under this section shall as soon as possible thereafter prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in such county for the purpose of determining the fitness of such dwellings for human habitation, and for the enforcement and administration of its ordinance or ordinances adopted under this section.

(h) Nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of any country or the Territory of Hawaii to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

(i) Nothing in this section shall be construed to impair or limit in any way the power of the county or of the board of health of the Territory of Hawaii to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise."

**SECTION 2.** Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or of said chapter 121.01, as amended by this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, or of said chapter 121.01, and the application of such provision to persons and circumstances other than those as to which it is held invalid, shall not be affected thereby.

No provision of Part I of said chapter 121.01 which would be valid if this Act had not been enacted shall be construed to be amended by this

Act or by Part II of said chapter in such manner or to such extent as to invalidate such provision.

SECTION 3. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

SECTION 4. Notwithstanding any provision to the contrary in the foregoing sections of this Act, the provisions of Part II of Chapter 121.01 of said Revised Laws, as enacted by this Act, shall not be effective or enforceable with respect to any geographical area or locality other than

“(a) the District or ‘City of Honolulu’ as defined by Section 6502 of said Revised Laws as amended and such adjoining areas, if any, as are required to be considered as a part of the ‘community’ of said ‘City’ of Honolulu in order to enable the city and county of Honolulu to satisfy the requirements of the Federal Housing Act of 1954 in presenting to the Administrator of the Housing and Home Finance Agency of the federal government an approved ‘workable program’ for the community comprised by the said ‘City’ of Honolulu, and

(b) the ‘City of Hilo’ as defined by Section 6351 of said Revised Laws, except that portion bounded on the west by the easterly boundary of the Hilo Forest Reserve and on the south by the southerly boundary of the land of Puueo and on the east by a line parallel to and lying 2000 feet west of the old Mamalahoa Highway and on the north by the northerly boundary of the ‘City of Hilo’,

until and unless the Legislature shall hereafter enact legislation specifically providing for the extension of said Part II to other geographical areas; **provided** (1) that, for a period of ten years from the effective date of this Act, said Part II shall not be applicable to any housing for employees of any agricultural enterprise furnished gratis or for rent for such employees by the owner of such enterprise, or by any subsidiary of such owner, in any locality on the island of Oahu outside the said ‘City’ of Honolulu; **provided**, further (2) that, in the event that the said administrator of the Housing and Home Finance Agency shall finally determine that the city and county of Honolulu cannot become eligible for federal assistance under the said Federal Housing Act of 1954 by reason of Proviso No. 1 of this section, then upon certification of such determination in writing by the said Administrator to the Mayor of said city and county, the said Proviso No. 1 shall be deemed waived and of no further effect. Nothing in this section or in this Act shall be deemed to limit or restrict any powers granted to any county or to any department, board, commission, or other agency of the Territory or of any county by Part I of said Chapter 121.01 as amended, or by any other laws.”

SECTION 5. This Act shall take effect upon its approval.

(Approved June 20, 1955.) **H.B. 767, Act 271.**

## ACT 272

An Act Relating to the Board of Commissioners of Agriculture and Forestry and to the Inspection and Grading of Certain Products.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of commissioners of agriculture and forestry shall adopt standard grades for beef, pork, and poultry carcasses, and make rules and regulations relating thereto, subject to the approval of the governor which shall have the force and effect of law, and shall be applicable only to carcasses previously inspected and passed for wholesomeness. Such rules and regulations may include provisions for the enforcement thereof, including the definitions of prohibited acts and the penalties therefor.

SECTION 2. The standard grades adopted hereunder by said board shall, wherever and whenever it may be practicable to do so, conform with existing federal standards relating thereto.

SECTION 3. The grading of beef, pork, and poultry carcasses by trained graders of the board of commissioners of agriculture and forestry shall be voluntary with the producer. Whenever a significant segment of the beef, pork or poultry industries shall apply for grading of carcasses, the board shall furnish such grading services.

SECTION 4. The board shall have authority to regulate advertising in regard to grading, inspection, and origin of carcasses or parts thereof by slaughterers, wholesalers, and retailers of beef, pork or poultry carcasses offered for sale, regardless of the origin of said carcasses.

SECTION 5. Before adopting any rules or regulations authorized by this Act, the board of commissioners of agriculture and forestry shall first hold a public hearing upon the proposed rules or regulations on each island.

SECTION 6. Section 7040.07 of Act 246 (Series C-161) of the Session Laws of Hawaii 1953 is hereby amended by changing the period after the last sentence to a comma and adding the words to read as follows:

"which fee shall be borne by the owner of any such animal at the time of slaughter, but where there is an existing contract of sale for such animal at the time of the slaughter, then the purchaser therein shall pay the fee."

SECTION 7. This Act shall take effect upon its approval.

(Approved June 20, 1955.) H.B. 544, Act 272.

ACT 273

An Act Relating to Public Improvements and the Financing thereof, Making Appropriations for Public Improvements and Providing for the Issuance of Public Improvement Bonds, Memorializing the Congress of the United States to Authorize the Issuance of Public Improvement Bonds of the Territory of Hawaii without Respect to the Limitations Imposed by the Hawaiian Organic Act or Other Acts of Congress; Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1957; Authorizing the Board of Supervisors of the City and County of Honolulu to Issue General Obligation Bonds in the sum of Five Million Three Hundred Thousand Dollars (\$5,300,000) for the Realignment of Kalakaua Avenue and Beach Expansion in Waikiki in the City and County of Honolulu; Making Appropriations by Way of Advancements Out of General Funds; Making Appropriations of Funds Derived from Sale of Sand Island, City and County of Honolulu; and Amending Act 280 of the Session Laws of Hawaii 1953.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. (a) The following sums are hereby appropriated for the following purposes out of any moneys hereafter received by the treasurer of the Territory of Hawaii for or on account of loan funds, and bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be found necessary:

1. TERRITORIAL IMPROVEMENTS (TERRITORY)

- 1 (a) New terminal building, Oahu (To be expended by Hawaii Aeronautics Commission through the superintendent of public works)  
Provided, that the Hawaii Aeronautics Commission shall pay to the Territory on the interest dates of general obligation bonds issued by the Territory in accordance herewith, the interest then due thereon and in addition thereto shall pay to the Territory on or before the twentieth day of November of each year the amount of the principal of such bonds maturing the following year. The auditor of the Territory is authorized to deduct from the amount of any warrant or warrants otherwise issuable by him to the Hawaii Aeronautics Commission such amounts when due as are required by this section to be paid by the Hawaii Aeronautics Commission, and proper receipts shall thereupon be exchanged between the treasurer of the Territory and the Commission ..... \$ 4,000,000
- 1 (b) Molokai Irrigation system (To be expended by the Hawaii Irrigation Authority) ..... 2,500,000
- 1 (c) Waimea Irrigation Project, extension of project to Lalamilo Lands (To be extended by the Hawaii Irrigation Authority) ..... 400,000



1 (d)	Territorial Hospital, female tuberculosis unit (To be expended by Department of Institutions) .....	250,000
	(Not Approved S.W.K.)	
1 (e)	Capitol Building, acquisition of land .....	2,000,000
1 (f)	Rehabilitation Center for blind and physically handicapped persons (To be supplemented by contributions from clubs and individuals) .....	150,000
1 (g)	Waimano Home, third story to hospital build- ing (To be expended by Department of Institu- tions) .....	185,000
1 (h)	Health Department building, including labo- ratory, Oahu .....	960,000
1 (i)	Iolani Palace, rehabilitation .....	100,000
1 (j)	Conversion of library to classroom and faculty offices, University of Hawaii .....	250,000
1 (k)	Agriculture Building, University of Hawaii .....	370,000
1 (l)	High School Building, University of Hawaii .....	300,000
1 (m)	Physical Education Building, University of Ha- waii .....	543,000
1 (n)	Men's Dormitory, first unit, University of Ha- waii .....	350,000
1 (o)	Territorial Building, Wailuku, Maui, includ- ing laboratory for Health Department, and ac- quisition of land therefor .....	350,000
	(Not Approved S.W.K.)	
1 (p)	Territorial Building, Hilo, Hawaii .....	450,000
	(Not Approved S.W.K.)	
1 (q)	Territorial Building, Lihue, Kauai, including laboratory for Health Department .....	350,000
	(Not Approved S.W.K.)	
2.	TERRITORIAL IMPROVEMENTS (OAHU)	
2 (a)	Honolulu Vocational School, foods building .....	100,000
2 (b)	Honolulu Vocational School, classroom and of- fice building .....	150,000
2 (c)	Honolulu Vocational School, shop building .....	119,000
2 (d)	Three-unit Armory, Wahiawa, Oahu .....	71,000
2 (e)	Library of Hawaii, improvements and repairs ....	25,000
	(Not Approved S.W.K.)	
2 (f)	Kailua Branch Library .....	225,000
2 (g)	Kaimuki Branch Library, improvements and repairs .....	60,000
	(Not Approved S.W.K.)	
2 (h)	Practical Nursing School Unit on McKinley High School grounds .....	100,000
2 (i)	Aiea Library .....	100,000
	(Not Approved S.W.K.)	
2 (j)	Pokai Bay Breakwater (To be expended under direction of board of harbor commissioners) .....	100,000
2 (k)	Kaena Point Road (To be expended as speci- fied under item 2(k) of Act 280, Session Laws of Hawaii 1953) .....	50,000
	(Not Approved S.W.K.)	

## 3. TERRITORIAL IMPROVEMENTS (HAWAII)

3 (a) One-unit Armory and land, Olaa, Hawaii .....	53,000
3 (b) Kohala Mountain Road .....	100,000
3 (c) Kaohe Homestead Road (Farm to market road— Federal Aid) Pahoa, Hawaii .....	30,000
(Not Approved S.W.K.)	
3 (d) Pahala Branch Library .....	27,000
(Not Approved S.W.K.)	
3 (e) University of Hawaii (Hilo Branch) .....	75,000
(Not Approved S.W.K.)	
3 (f) Small craft landing at Reed's Bay .....	15,000
(Not Approved S.W.K.)	
(To be expended under direction of board of harbor commissioners)	
3 (g) Kailua seawall and road widening (superinten- dent of public works to first study feasibility of opening road behind business section as prior possibility, and accomplish if feasible, and to in- clude beach improvement if funds permit in either case) .....	100,000
3 (h) Hilo Experiment Station .....	60,000
(Not Approved S.W.K.)	
3 (i) Hawaiian Village, Wailoa, Hilo .....	40,000

## 4. TERRITORIAL IMPROVEMENTS (MAUI COUNTY)

4 (a) Reservoir and pipe line for Lahainaluna School ..	40,000
4 (b) Kalaupapa Cottages .....	85,000
4 (c) Small Boat Harbor, Maalaea (Harbor Commis- sioners) .....	65,000
(Not Approved S.W.K.)	
4 (d) Small Boat Harbor, Lahaina (Harbor Commis- sioners) .....	35,000
(Not Approved S.W.K.)	
4 (e) Kahului Armory .....	58,000
4 (f) Kahului Library .....	70,000
(Not Approved S.W.K.)	
4 (g) Kula Experiment Station .....	35,000
(Not Approved S.W.K.)	
4 (h) National Guard shooting range and repairs to buildings, Papohaku, Maui .....	12,000
(Not Approved S.W.K.)	

## 5. TERRITORIAL IMPROVEMENTS (KAUAI COUNTY)

5 (a) One-unit Armory, Kapaa, Kauai .....	48,000
5 (b) Alleviation of the flood and drainage, Waipouli and Wailua, acquire right-of-way if necessary, county of Kauai .....	75,000
(Not Approved S.W.K.)	
5 (c) Kapaa Health Center .....	35,000
(Not Approved S.W.K.)	
5 (d) Waikoko and Waipa Bridges, Hanalei .....	75,000
(Not Approved S.W.K.)	
5 (e) Port Allen Small Boat Harbor (Harbor Commis- sioners) .....	67,000

(b) The foregoing appropriations shall be deemed to include necessary

plans and acquisition of land. The sums appropriated by the foregoing items 1 to 5, both inclusive, shall be expended by the superintendent of public works unless otherwise specified.

(c) In case the amount specified in any item of this section shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said work or after it is definitely ascertained by the officer or officers in charge of the work authorized by said item that not more than a specified amount, less than the whole amount appropriated by said item will be required to complete said work, be transferred by the governor to supplement the appropriation for any other item or items.

SECTION 2. (a) The following sums are also hereby appropriated for the following purposes out of any moneys received by the treasurer of the Territory of Hawaii for or on account of loan funds, and bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be found necessary:

#### 6. CITY AND COUNTY OF HONOLULU

6 (a) City and County Jail .....	\$ 700,000
6 (b) Waialae Elementary School, cafetorium .....	90,000
6 (c) Palolo Elementary School, cafetorium .....	90,000
6 (d) Lunalilo School, pavilion .....	15,000
6 (e) Moiliili Field, comfort station, fence, night lighting, drainage and general improvements .....	75,000
(Not Approved S.W.K.)	
6 (f) Aquarium - construction of oceanarium .....	150,000
6 (g) Kailua High School, gymnasium .....	250,000
(Not Approved S.W.K.)	
6 (h) Kaimuki High School, auditorium .....	300,000
(Not Approved S.W.K.)	
6 (i) Kuhio School, road and parking area improvement .....	10,000
(Not Approved S.W.K.)	
6 (j) Roosevelt High School, completion of physical education plant .....	80,000
6 (k) Pauoa School classrooms and improvements .....	50,000
(Not Approved S.W.K.)	
6 (l) Farrington High School swimming pool facilities (To be expended under direction of department of public works) .....	75,000
6 (m) Kahuku Hospital (To be expended under direction of department of public works) .....	50,000
6 (n) Waipahu Community Gymnasium Auditorium ..	200,000
6 (o) Wahiawa Hospital (Supplemental matching funds to be provided by community and from Federal sources) .....	150,000
6 (p) Kaneohe Police Station and Courthouse .....	150,000
6 (q) Waialua Elementary School, cafetorium .....	90,000
6 (r) Waialua athletic field .....	5,000
(Not Approved S.W.K.)	
6 (s) Kapalama School, pavilion .....	15,000
(Not Approved S.W.K.)	
6 (t) Kaiulani School, renovation of building .....	80,000
(Not Approved S.W.K.)	

6 (u) Leilehua High School, athletic field, bleachers (\$10,000), drainage for athletic field area (\$5,000), and paving and lighting of parking area (\$2,000)	17,000
6 (v) Hauula Fire Station .....	20,000
6 (w) Nanakuli Fire Station .....	20,000
6 (x) Waiahole School, cafetorium .....	90,000
(Not Approved S.W.K.)	
6 (y) Road over gulch between California Avenue and Glen Avenue, Wahiawa .....	50,000
6 (z) Kaloaloe School, cafeteria enlargement .....	8,000
(Not Approved S.W.K.)	
6 (aa) Aiea Civic Center, acquisition of land .....	90,000
<b>7. COUNTY OF HAWAII</b>	
7 (a) Roads - construction, widening, paving, resurfacing and acquisition of rights-of-way .....	1,000,000
(Not Approved S.W.K.)	
7 (b) Public Buildings - engineering, plans, acquisition of lands, construction, equipment .....	1,200,000
(Not Approved S.W.K.)	
7 (c) Water Development .....	700,000
(Not Approved S.W.K.)	
7 (d) Recreation and Development (included in this appropriation is \$40,000 for improvement of Hilo Municipal Golf Course) .....	500,000
(Not Approved S.W.K.)	
7 (e) Flood Control .....	100,000
(Not Approved S.W.K.)	
<b>8. COUNTY OF MAUI</b>	
8 (a) Baldwin High School Physical Education Department .....	100,000
8 (b) Hoolehua Elementary School .....	100,000
(Not Approved S.W.K.)	
8 (c) Kula Park .....	30,000
8 (d) Lahaina Memorial Gymnasium .....	300,000
(Not Approved S.W.K.)	
8 (e) Makawao Park .....	25,000
8 (f) Wailuku Elementary School .....	77,000
(Not Approved S.W.K.)	
8 (g) Hana Park (District) .....	5,000
(Not Approved S.W.K.)	
8 (h) Waihee Park .....	10,000
(Not Approved S.W.K.)	
8 (i) Mokuahau Park .....	40,000
(Not Approved S.W.K.)	
8 (j) Molokai Kalaupapa Road .....	50,000
8 (k) Police-Fire Station and Courthouse, Molokai .....	90,000
8 (l) Flood Control .....	100,000
(Not Approved S.W.K.)	
<b>9. COUNTY OF KAUAI</b>	
9 (a) Kapaa School Cafetorium .....	132,000
9 (b) Kauai High School - General Shop Building .....	50,000
(Not Approved S.W.K.)	
9 (c) Koloa School Kindergarten Building - 3 classes .....	56,400

9 (d) Hanapepe Flood Control for rights-of-way ----- (Not Approved S.W.K.)	50,000
9 (e) Anahola Pavilion and Comfort Station ----- (Not Approved S.W.K.)	8,000
9 (f) Eleele School Kindergarten Building - 3 classes ---- (Not Approved S.W.K.)	56,400
9 (g) Kauai Veterans Cemetery -----	15,000
9 (h) Kapaa School - General Shop Building ----- (Not Approved S.W.K.)	50,000
9 (i) Construction of one classroom kindergarten building, Kilauea School ----- (Not Approved S.W.K.)	18,800
9 (j) Construction of 3 class room commercial build- ing and other improvements, Waimea High School -----	21,248
9 (k) Addition to shop building - Waimea High School -----	12,000
9 (l) Construction of new pavilion, Poipu, Koloa, Kauai -----	20,000
9 (m) Addition to new Lihue School -----	130,000

(b) Except where specified otherwise, the foregoing appropriations, (items 6 to 9, both inclusive), shall be deemed to include the preparation of necessary plans. The sums appropriated by this section, being items 6 to 9, both inclusive, shall be expended by the boards of supervisors of the respective counties, except where otherwise specified; provided, as to item 7, the specific projects and priorities between and among the same shall be determined by the board of supervisors of the county of Hawaii.

(c) In case the amount specified in any item of this section shall not be wholly required to complete the work on such item the unrequired balance may, after completion of said work or after it is definitely found by the officer or officers in charge of the work authorized by said item that not more than a specified amount, less than the whole amount appropriated by said item, will be required to complete said work, be expended for the work specified in any of the other items for the same county, and any unrequired balance remaining after the completion of all the items for such county listed in this section shall be transferred to the permanent improvement fund of the same county.

(d) That no moneys shall be expended under any of said items 6 to 9, both inclusive, until the methods, materials, plans, and specifications proposed to be used for the construction or reconstruction of the improvements authorized by said item shall first have been submitted to the superintendent of public works.

(e) That all school buildings erected under any of the items in this section and all lands purchased for school purposes under any of the items specified in this section shall be subject to the approval of the department of public instruction as to the locality of the lands purchased and as to the size, arrangement, dimensions, lighting of the rooms and sanitary condition as to the buildings erected.

(f) Each county, except the county of Kauai, shall pay to the Territory on the interest dates of serial bonds issued by the Territory under this Act, the proceeds of which shall have been or are to be expended for such of the projects referred to in items 6 to 8, both inclusive, as are to be under-

taken in such county, the interest then due thereon and in addition thereto shall pay to the Territory on or before the twentieth day of November of each year the amount of the principal of such serial bonds maturing the following year.

The auditor of the Territory is authorized to deduct from the amount of any warrant or warrants otherwise issuable by him to the treasurer of any county, except the county of Kauai, such amounts when due as are required by this section to be paid by such county, and proper receipts shall thereupon be exchanged between the treasurers of the Territory and such county.

(g) As to the foregoing appropriations under item 9, County of Kauai, the first \$425,000 thereof shall be expended by the Territory, in the same manner contemplated by section 1 of this Act as to territorial improvements; as to the balance of such appropriations under said item 9, the county of Kauai shall pay the interest and principal due on the serial bonds issued therefor, and such payments of interest and principal shall be made as required under the provisions of the foregoing sub-paragraph (f).

SECTION 3. (a) There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of \$400,000 to be expended as herein provided:

#### 10. BOARD OF AGRICULTURE AND FORESTRY

10 (a) New nursery, Kauai:	
(1) Clearing and grading land and approach road .....	\$ 2,000
(2) Office building .....	20,000
(3) Repair shop and garage .....	14,000
(4) Potting shed and tool storage .....	2,000
(5) Transplanting shed .....	6,000
(6) Seeds germinating house .....	1,500
(7) Quarantine houses .....	1,500
10 (b) Various repair projects .....	3,221
	(Not Approved S.W.K.)
10 (c) Repairs to ranger stations, Kauai .....	3,500
	(Not Approved S.W.K.)
TOTAL: Agriculture & Forestry .....	53,721

#### 11. HEALTH DEPARTMENT

11 (a) Lanakila Health Center:	
(1) Remove, relocate and install new partitions .....	1,600
(2) Install new lighting fixtures .....	1,000
11 (b) Kapahulu Health Center:	
(1) Replace paper partition between offices .....	250
(2) New lighting fixtures .....	1,000
11 (c) Kalaupapa Settlement:	
(1) Paving existing unpaved streets .....	14,400
(2) Widening, straightening and paving airport road .....	10,600
(3) Cinemascope screen .....	10,000
11 (d) Kona Health Center .....	19,500

11 (e) Waiakea Health Center .....	27,500	
TOTAL: Health Department .....		85,850
12. DEPARTMENT OF INSTITUTIONS		
12 (a) Water tank, 100,000 gallons .....		10,000
13. LIBRARIES		
13 (a) Library of Hawaii, paving dirt area north-east of Kaimuki branch .....		3,750
14. MILITARY DEPARTMENT		
14 (a) Install outdoor floodlights, Fort Ruger armories .....	4,000	
14 (b) Construction of two latrine and shower facilities, Fort Ruger .....	6,800	
14 (c) Rehabilitation and alterations, Building #269, Fort Ruger .....	5,600	
TOTAL: Military Department .....		16,400
15. DEPARTMENT OF PUBLIC WORKS		
15 (a) Equipment for new buildings authorized by the 28th Legislature and completed during the biennial period ending June 30, 1957 .....	171,929	
15 (b) Repair of Lualualei reservoir .....	2,500	
TOTAL: Department of Public Works .....		174,429
16. SURVEY DEPARTMENT		
16. (a) Fireproof room for records .....		850
17. UNIVERSITY OF HAWAII		
17 (a) Resurfacing existing roads .....	25,000	
17 (b) Campus lighting improvements .....	10,000	
17 (c) Offstreet parking area .....	20,000	
TOTAL: University of Hawaii .....		55,000
TOTAL OF PUBLIC IMPROVEMENTS AND EQUIPMENT .....		400,000

(b) The amount appropriated for equipment under 15 (a) for new buildings authorized by the 28th Legislature and completed during the biennial period ending June 30, 1957, shall be allocated and expended as necessary by the department of public works with the approval of the governor.

(c) The foregoing appropriations, (items 10 to 17, inclusive), shall be deemed to include the preparation of necessary plans and shall be expended by the department of public works.

(d) In case the amount specified in any item of this section shall not be wholly required to complete the work on such item the unrequired balance may, after completion of said work or after it is definitely ascertained by the officer or officers in charge of the work authorized by said item that not more than a specified amount, less than the whole amount appropriated by said item, will be required to complete said work, be transferred by the governor to supplement the appropriation for any other item or items.

SECTION 4. (a) There is hereby appropriated the sum of \$400,000, or so much thereof as may be necessary, by way of an advancement out of the

general funds of the Territory, to be expended as herein provided:

- |  |         |
|--|---------|
| 1 (a) Construction, reconstruction, renovation and enlargement of Kulani Prison Camp on the island of Hawaii and equipment ..... | 150,000 |
| 1 (b) Construction, reconstruction, renovation and enlargement of Olinda Prison Camp, Maui, and equipment .....                  | 250,000 |

(b) The foregoing appropriations shall be deemed to include the preparation of necessary plans. In case the amount specified in any of the two items specified in this section shall not be wholly required to complete the work on such item the unrequired balance may, after completion of said work or after it is definitely ascertained by the officer or officers in charge of the work authorized by said item that not more than a specified amount, less than the whole amount appropriated by said item, will be required to complete said work, be transferred by the director of institutions to supplement the appropriation for the other item, if necessary.

(c) The moneys appropriated by this section shall be expended by the department of public works and shall be reimbursed to the general fund of the Territory of Hawaii from proceeds of the sale of Oahu Prison lands authorized by Act 314 of the Session Laws of Hawaii 1951.

SECTION 5. (a) The sums of four million dollars (\$4,000,000) and nine million seven hundred thousand dollars (\$9,700,000) are hereby appropriated for the purpose of acquiring sites for new schools and additions to existing sites and construction of public school buildings and facilities in the city and county of Honolulu out of any moneys received by the treasurer of the Territory of Hawaii for, or on account of loan funds, and bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be found necessary for the school years, 1956 and 1957, and 1958 and 1959, respectively.

(b) The sums appropriated by this section shall be expended by the board of supervisors of the city and county of Honolulu in accordance with the priority as recommended by the department of public instruction for acquisition of new school sites and additions to existing school sites.

Such new school sites or additions to existing sites shall be selected by the department of public instruction.

(c) The sums appropriated by this section shall also be expended by the board of supervisors of the city and county of Honolulu for the planning and construction of school buildings and facilities, such construction to be under the control and direction of the superintendent of buildings of the city and county of Honolulu and to be made in accordance with plans and specifications prepared by said superintendent of buildings which shall comply with the standards of instructional needs and requirements presented by the department of public instruction.

(d) The city and county shall pay to the Territory on the interest dates of serial bonds issued by the Territory under this Act, the proceeds of which shall have been or are to be expended for the purposes herein stated, the interest then due thereon and in addition thereto shall pay to the Territory on or before the twentieth day of November of each year the amount of the principal of such serial bonds maturing the following year.



(e) The auditor of the Territory is authorized to deduct from the amount of any warrant or warrants otherwise issuable by him to the treasurer of the city and county of Honolulu such amounts when due as are required by this section to be paid by the city and county of Honolulu, and proper receipts shall thereupon be exchanged between the treasurer of the Territory and the city and county of Honolulu.

(f) The Congress of the United States is hereby requested to authorize the issuance by the Territory of Hawaii, of public improvement bonds in the amount of thirteen million seven hundred thousand dollars (\$13,700,000), any provisions of the Hawaiian Organic Act or any Act of Congress to the contrary notwithstanding, and to waive any limitations or requirements on bonded indebtedness which may be incurred at any time or in any one year by the Territory of Hawaii set by the Hawaiian Organic Act or any other Act of Congress. No bonds shall be issued until the bond issues prescribed herein are ratified and approved by the enactment of legislation by the Congress of the United States of America.

(g) The appropriations provided by section 5 (a) of this Act in the aggregate amount of thirteen million seven hundred thousand dollars (\$13,700,000) shall be valid only upon approval and ratification by the United States Congress by appropriate legislation authorizing the issuance of bonds in the amount of thirteen million seven hundred thousand dollars (\$13,700,000) without regard to the existing debt limitations imposed by either the Hawaiian Organic Act or any other Act of Congress.

SECTION 6. (a) The sums of two million dollars (\$2,000,000) and two million dollars (\$2,000,000) are hereby appropriated for the purpose of acquiring sites for new schools and additions to existing sites and construction of public school buildings and facilities in the county of Hawaii out of any moneys received by the treasurer of the Territory of Hawaii for, or on account of loan funds, and bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be found necessary for the school years, 1956 and 1957, and 1958 and 1959, respectively.

(b) The sums appropriated by this section shall be expended by the board of supervisors of the county of Hawaii in accordance with the priority as recommended by the department of public instruction for acquisition of new school sites and additions to existing school sites.

Such new school sites or additions to existing sites shall be selected by the department of public instruction.

(c) The sums appropriated by this section shall also be expended by the board of supervisors of the county of Hawaii for the planning and construction of school buildings and facilities, such construction to be under the control and direction of the chief engineer of the county of Hawaii and to be made in accordance with plans and specifications prepared by said chief engineer which shall comply with the standards of instructional needs and requirements presented by the department of public instruction.

(d) The county of Hawaii shall pay to the Territory on the interest dates of serial bonds issued by the Territory under this Act, the proceeds of which shall have been or are to be expended for the purposes herein stated, the interest then due thereon and in addition thereto shall pay to the Territory on or before the twentieth day of November of each year

the amount of the principal of such serial bonds maturing the following year.

(e) The auditor of the Territory is authorized to deduct from the amount of any warrant or warrants otherwise issuable by him to the treasurer of the county of Hawaii such amounts when due as are required by this section to be paid by the county of Hawaii, and proper receipts shall thereupon be exchanged between the treasurer of the Territory and the county of Hawaii.

(f) The Congress of the United States is hereby requested to authorize the issuance by the Territory of Hawaii, of public improvement bonds in the amount of four million dollars (\$4,000,000), any provisions of the Hawaiian Organic Act or any Act of Congress to the contrary notwithstanding, and to waive any limitations or requirements on bonded indebtedness which may be incurred at any time or in any one year by the Territory of Hawaii set by the Hawaiian Organic Act or any other Act of Congress. No bonds shall be issued until the bond issues prescribed herein are ratified and approved by the enactment of legislation by the Congress of the United States of America.

(g) The appropriations provided by section 6 (a) of this Act in the aggregate amount of four million dollars (\$4,000,000) shall be valid only upon approval and ratification by the United States Congress by appropriate legislation authorizing the issuance of bonds in the amount of four million dollars (\$4,000,000) without regard to the existing debt limitations imposed by either the Hawaiian Organic Act or any other Act of Congress.

SECTION 7. (a) The board of supervisors of the city and county of Honolulu is hereby authorized to issue general obligation bonds in the total sum of five million three hundred thousand dollars (\$5,300,000) provided that the limitations and requirements of the Organic Act and chapter 117 of the Revised Laws of Hawaii 1945 as to the total bond indebtedness which may be incurred at any time or in any one year shall be waived as to bonds issued under this section.

(b) The moneys realized from the bond issue provided by this section shall be expended for realigning Kalakaua Avenue from Kuhio Beach to the Natatorium, deleting all streets, street widenings, alleys and ways lying between the beach and the realigned Kalakaua Avenue and establishing an open beach area makai of the said realigned Kalakaua Avenue and for the acquisition of lands and or land rights, the acquisition of existing improvements thereon and for the acquisition of lands, improvements to the beach in the area between the Surfrider Hotel and the Natatorium, all in Waikiki, in the city and county of Honolulu, for the expansion of Waikiki Beach.

(c) For the purpose of payments of interest due and of principal due on the serial bonds issued under authority of this section, the board of supervisors of the city and county of Honolulu is authorized to make funds available for any of the purposes of this section out of any moneys in the general fund of the city and county.

(d) This section shall take effect upon the enactment of legislation by the Congress of the United States of America ratifying this section and authorizing such bond issue notwithstanding the limitations of the Organic Act of the Territory of Hawaii or any other law to the contrary; provided, however, that no bonds shall be issued before January 1, 1957.

(e) The Congress of the United States is hereby respectively requested to enact the legislation described and defined in the foregoing subparagraph (d).

SECTION 8. In the event that the Territory of Hawaii during the biennium ending June 30, 1957, sells any portion of that area of the city and county of Honolulu known as Sand Island, the proceeds of such sale shall be applied, and are hereby appropriated, to the construction of the improvements of the University of Hawaii included under items 1 (j), 1 (k), 1 (l), 1 (m) and 1 (n) of section 1 hereof; **provided**, however, that in the event that moneys have already been expended for or committed to such University projects at the time when the proceeds of the sale of Sand Island shall become available, such proceeds shall first be appropriated to the account of loan funds described in this Act, to the extent of the amount so expended for or committed to said items 1 (j), 1 (k), 1 (l), 1 (m) and 1 (n).

Should the proceeds of such sale of lands on Sand Island exceed the cost requirements of said University projects, any excess of such proceeds shall be available, and such excess funds are hereby appropriated for construction and equipment of University projects, with the approval of the governor, with priority in the following order given to:

(1) Campus survey, roads and drainage .....	\$100,000
(2) Veterans' memorial men's dormitory .....	590,000
(3) Engineering building .....	632,000
(4) Dispensary building .....	50,000
(5) Military science building .....	345,000

In the event there are additional funds available from such proceeds of the sale of Sand Island, following the expenditures described in the foregoing paragraph, such additional funds are hereby appropriated for other improvements of the University of Hawaii, to be determined by the board of regents of the University with the approval of the governor.

SECTION 9. Item 2 (s) of section 1 (a) of Act 280 of the Session Laws of Hawaii 1953 (Series E-247) is hereby amended by amending the description of the construction project provided for therein, to read as follows:

"Bridge over Ala Wai Canal between McCully Street and the Diamond Head end of the Ala Wai Canal, or in the alternative, improvement and widening of the McCully Street bridge".

SECTION 10. No moneys appropriated by sections 1, 2, 5, 6, 7 and 8 of this Act shall be expended in an amount in excess of that which would cause the total indebtedness of the Territory to be extended, and the total indebtedness of the Territory shall not be extended beyond the limits by the Hawaiian Organic Act or by any other Act of Congress, whichever authorized the incurring of the greater debt, and to the extent in excess thereof, the governor shall determine the priority of items contained in those sections and shall authorize the expenditure of the moneys in accordance with such priority only to the extent the floating of bonds therefor will not exceed such authorized debt limit.

SECTION 11. Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly **provided** that, in the event that it is found possible to secure federal funds made available under any Act of the Congress of the United States to be expended in connection with

or for the construction of any of the projects or works authorized by any item of this Act (whether or not such item specifically provides for expenditure thereof in connection with federal funds), the proper territorial or county officers, or both, charged with the expenditure of the funds appropriated by such item, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to required conditions, transfer the funds appropriated by this Act to such other officer, officers or agents of the Territory or county (who are hereby given power to expend the same pursuant to the Act) for expenditure thereof, and do and perform such other acts and things as may be necessary or be required by such acts of said Congress or any regulations or requirements of the federal government, as a condition to securing such federal funds for such projects or works.

Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any Act or Acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency, or instrumentality to the Territory for the construction, in whole or in part, of any public works project authorized under this Act or the cost of which, or any portion thereof, would be payable or could legally be paid out of the proceeds of such bonds if sold.

SECTION 12. This Act shall take effect upon its approval.

(Approved June 22, 1955.) H.B. 758, Act 273, except as to those items marked "Not Approved" and initialed by me, which items so marked and so initialed are hereby disapproved.

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## ACT 274

An Act Relating to the Public Service in the Territory and the Several Counties Including Civil Service, Compensation and Vacation and Sick Leave Allowances of Public Officers and Employees, Amending Chapters 2 and 3 and Sections 130, 550 and 552, Revised Laws of Hawaii 1945, as Amended, and Making Appropriations Relating thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 2 of the Revised Laws of Hawaii 1945 is hereby further amended to read as follows:

"Sec. 61. Purpose of this chapter; statement of policy. It is hereby declared to be the purpose of this chapter to establish in the Territory and each of the counties a system of personnel administration based on merit principles and scientific methods governing the classification of positions and the employment, conduct, movement and separation of public officers and employees. It is also declared to be the purpose of this chapter to build a career service in government which will attract, select and retain the best of our citizens on merit, free from coercive political influences, with incentives in the form of

genuine opportunities for promotions in the service, which will eliminate unnecessary and inefficient employees, and which will provide technically competent and loyal personnel to render impartial service to the public at all times, and to render such service according to the dictates of ethics and morality. In order to achieve these purposes it is the declared policy of the Territory that the personnel system hereby established be applied and administered in accordance with the following merit principles:

(a) Equal opportunity for all regardless of race, religion or politics.

(b) Impartial selection of the ablest person for government service by means of competitive tests which are fair, objective, and practical.

(c) Just opportunity for competent employees to be promoted within the service.

(d) Reasonable job security for the competent employee, including the right of appeal from personnel actions.

(e) Systematic classification of all positions through adequate job evaluation.

(f) Proper balance in employer-employee relations between the people as the employer and employees as the individual citizens, to achieve a well trained, productive and happy working force.

**Sec. 62 Uniform interpretation.** It is the intent of the legislature that the construction and interpretation of any of the provisions of this chapter and of chapter 3 be uniform for the Territory and the several counties.

All questions requiring the construction or interpretation of any of the provisions of this chapter or of chapter 3 shall be submitted to the attorney general for his opinion and he shall render his opinion promptly on any such question when requested by the head of any department of the Territory or any county. In case such opinion is in conflict with an opinion rendered upon the same or substantially similar question by any county attorney and the question upon which said opinion is rendered has been raised by a county, the question may, either at the instance of the county attorney or the attorney general, be submitted to the circuit court of the first judicial circuit for a declaratory judgment on such question, and jurisdiction to hear and determine such questions is hereby conferred upon such circuit court. The circuit court shall determine such question without delay.

**Sec. 63. Uniform administration.** It is the intent of the legislature that the system of personnel administration established by this chapter and chapter 3 shall be as uniformly administered as is practicable. In order to promote such uniformity, the several commissioners and directors of the territorial and county departments of civil service shall meet at least once each year at the call of the territorial civil service commission.

**Sec. 64. Agreements between territorial and county departments.** The several departments of civil service of the Territory and the counties are hereby authorized to enter into agreements for the joint

administration of such matters as may be practicable and consistent with the provisions of this chapter and chapter 3, including the conducting of examinations and other procedures for the establishment of eligible lists and including the conducting of salary studies. All eligible lists established under such agreements shall be as fully effective as those established separately.

**Sec. 65. Service to counties by Territory.** Subject to the rules of the territorial department of civil service, the director of the territorial department of civil service may enter into agreements with any county to furnish services and facilities of the territorial department to any county in the administration of civil service including position classification in any county. Any such agreement may provide for the reimbursement to the Territory of the reasonable value of the services and facilities furnished, as determined by the director. All counties are hereby authorized to enter into such agreements.

**Sec. 66. Service to the counties by the city and county.** Subject to the rules of the department of civil service of the city and county of Honolulu, the director of the department of civil service of the city and county may enter into agreements with any county to furnish services and facilities of the city and county department of civil service to such county in the administration of civil service, including position classification, in such county. Any such agreement may provide for the reimbursement to the city and county of the reasonable value of the services and facilities furnished, as determined by the director. All counties are hereby authorized to enter into such agreements.

#### PART I. CIVIL SERVICE FOR THE TERRITORY

**Sec. 67. Department of civil service.** There shall be a department of civil service of the Territory, which shall include a civil service commission of five members and a personnel director.

**Sec. 68. Definitions.** As used in this part, unless the context clearly requires otherwise:

(a) 'Commission' means the civil service commission of the Territory;

(b) 'Director' means the personnel director whose position is established by section 75;

(c) 'Territorial service' means all offices and other positions in the public service of the Territory;

(d) 'Department' includes any department, court, board, commission or agency of the Territory;

(e) 'Appointing authority' means a department or person having power to make appointments or changes in status of employees in the territorial service and includes such subordinate, or, under rule of the commission, subordinates, as such department or person may designate to act for it or him. Notwithstanding any other provision of law, any department or person may make such a designation;

(f) 'Civil service' includes all positions in the territorial service not exempted by the provisions of section 77;

(g) 'Class' or 'class of positions' means a group of positions suffi-

ciently similar with respect to duties, authority and responsibilities so that the same title may reasonably be applied to, the same minimum qualifications may reasonably be required for, and the same salary range may apply to, each position allocated to the class.

(h) 'Promotional examination' means an examination for positions in a particular class, admission to which is limited to regular employees in civil service;

(i) 'Open-competitive examination' means an examination for positions in a particular class, admission to which is not limited to persons employed in civil service;

(j) 'Open-competitive list' means a list of persons who have been found qualified by an open-competitive examination for appointment to a position in a particular class;

(k) 'Promotional list' means a list of persons who have been found qualified by a promotional examination for appointment to a position in a particular class;

(l) 'Reemployment list' means a list of persons who have been regular employees in the civil service and who are entitled to have their names certified for appointment to a position in the class in which they last held permanent status, or, as provided by Section 78(g), in a related class in the same or lower range for which they meet the qualifications requirements;

(m) 'Eligible list' means a list of persons who have been found qualified for appointment to a position in a particular class, such a list being either open-competitive, promotional or reemployment;

(n) 'Eligible' means a person whose name is on an active eligible list;

(o) 'Regular employee' means an employee who has been appointed to a position in the civil service in accordance with the provisions of this chapter and who has successfully completed his initial probation period;

(p) 'Initial probation period' means a period of not less than six months nor more than one year from the beginning of an employee's service in civil service;

(q) 'New probation period' means any probation period other than that defined in paragraph (p);

(r) 'Position' means a group of current duties and responsibilities legally assigned or delegated by competent authority to an officer or employee and performed on either a full or part-time basis;

(s) 'Employee' means a person holding a position in accordance with the provisions of this chapter whether permanently or otherwise and whether as an officer or otherwise;

(t) 'Position classification plan' means classes of positions arranged in a logical and systematic order.

**Sec. 69. Commission; appointment.** The members of the commission shall be persons who believe in applying merit principles to public employment. They shall be appointed by the governor in the manner prescribed in paragraph 1 of section 80 of the Hawaiian Organic Act and shall hold office for five years. Of the members appointed, one shall be selected from among persons employed in private industry in either skilled or unskilled laboring positions as

distinguished from executive or professional positions. No member of the commission shall be eligible for a second appointment to the commission prior to the expiration of two years from the date his previous term as such member expired. A person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed for the remainder of such term. Each member shall serve until his successor has been appointed and qualified. Not more than three members of the commission shall belong to the same political party. The commission shall select a chairman from its membership annually. Any commissioner may be removed by the governor in the manner prescribed by paragraph 1 of section 80 of the Hawaiian Organic Act, or, without the advice and consent of the Senate, upon conviction of any felony or misdemeanor involving moral turpitude, or for neglect of duty or malfeasance in office. The provisions of this section with respect to successive appointments to the commission shall not be applicable to any member who was serving a term of office as a commission member on January 1, 1955 and who will have served less than three years as such commission member upon the expiration of his present term in office.

Of the two members added to the civil service commission of the Territory by this Act, one member shall be appointed for a term to expire June 30, 1956, and one shall be appointed for a term to expire on June 30, 1958. Of the successors to the members of the commission holding office on the effective date of this Act, one shall be appointed for a term to expire June 30, 1960; one shall be appointed for a term to expire June 30, 1962; and one shall be appointed for a term to expire June 30, 1964.

Each succeeding appointment shall be for a term ending five years from the date of the expiration of the term for which the predecessor was appointed.

Of the two members added to each of the civil service commissions of the several counties, as provided by Parts II and III of this chapter, one member shall be appointed for a term to expire June 30, 1958 and one member shall be appointed for a term to expire on June 30, 1960. Of the successors to the members of the several commissions holding office on the effective date of this Act, one shall be appointed for a term to expire June 30, 1962, one shall be appointed for a term to expire June 30, 1964 and one to expire on June 30, 1966.

Each succeeding appointment shall be for a term ending five years from the date of the expiration of the term for which the predecessor was appointed.

**Sec. 70.** Each member of the commission shall be paid compensation at the rate of ten dollars per day for each day's actual attendance at a meeting, but not to exceed, in the aggregate, one hundred dollars in any month for commissioners serving on the territorial or city and county of Honolulu commissions and fifty dollars in any one month for commissioners serving on other commissions, and when any member shall be required to travel from any island to another island in the Territory in the performance of such duties, he shall be allowed his reasonable traveling expenses.



**Sec. 71. Meetings, quorum.** The commission shall meet at least once each month at such places as shall be made available for such purposes by the governor. The commission may meet at such other times as may be designated in advance by it, its chairman, or the governor. No business of the commission shall be conducted, except in meetings open to the public. Three members shall constitute a quorum.

**Sec. 72. Annual report.** The commission shall make a report to the governor, and to the members of the legislature not later than the 15th of February of each year, which report shall review the operations of the department of civil service and the administration of the personnel system for the preceding year. Such report shall also contain recommendations in the laws relating to the personnel system, deemed by the commission to be necessary or desirable to further promote the merit system for public employment.

**Sec. 73. Political activities prohibited.** No person who occupies any elective or appointive office or any position under the territorial or county government shall be eligible for membership on or continue to be a member of the commission. The term 'appointive office' for the purpose of this section, shall not include notaries public. No member of the commission shall, during his term of office, serve as an officer or committee member of any political party organization, including a precinct organization, or present himself as a candidate or be a candidate for nomination or election to any public office at any election. The office of any member who violates any of the provisions of this section or of Part IV of this chapter, shall be conclusively presumed to have been abandoned and vacated by reason thereof and the governor shall thereupon appoint a qualified person to fill such vacancy. As an alternative remedy, proceedings in the nature of quo warranto may be brought by any person to oust any such member who violates any provision of this section or of Part IV of this chapter.

**Sec. 74. General powers and duties of commission.** The commission shall:

(a) Represent the public interest in the improvement of personnel administration in the civil service;

(b) Assist the director in fostering the interest of institutions of learning and civic, professional and employee organizations in the improvement of personnel standards in civil service;

(c) Advise the governor on policies and problems concerning personnel administration;

(d) Make investigations concerning the administration of personnel policies in the civil service, including any matter respecting the enforcement or effect of the provisions of this chapter or the rules and regulations prescribed thereunder, or the action or failure to act of any officer or employee with respect thereto; and

(e) Hear and decide appeals from any action of the director under the provisions of this chapter, as well as from dismissals, demonstrations and suspensions as hereinafter provided.

**Sec. 75. Personnel director.** The commission shall appoint a per-

sonnel director who shall be the administrator of the department of civil service and who shall be a member of the civil service. The position of personnel director shall be classified by the commission and shall be assigned to its appropriate place in the salary schedule. The director shall, at the time of his appointment and thereafter, be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration.

Within 30 days after the existence, for any reason, of a vacancy in the office of the director, the commission shall appoint a special examining committee of three persons to conduct an examination for the position. No person shall be appointed to such committee unless he shall have knowledge of, and believe in applying merit principles to public personnel administration. Within 90 days after it is appointed, or within such further time as may be found to be necessary by the commission, the examining committee shall hold a competitive examination in accordance with the provisions of this part and on the basis of such examination shall establish an eligible list of persons found qualified for appointment as director. The examining committee shall thereupon certify to the commission the names of the highest five of those who have passed the examination and the commission shall select one of such persons as director. The examining committee shall have the same powers and duties with respect to the conduct of the examination and establishment of the eligible list as are vested in or imposed upon the director under the provisions of this part with respect to other positions in civil service. Every eligible list for director shall expire one year after it is established.

**Sec. 76. Duties and powers of director.** The director shall direct and supervise all the administrative and technical activities of the department of civil service. In addition to other duties imposed upon him by this chapter and chapter 3, he shall:

- (a) Attend all meetings of the commission;
- (b) Establish and maintain a roster of all persons in the civil service in which shall be set forth, as to each, the class of position held, the salary or pay, any change in class, title, pay or status, and any other necessary data;
- (c) Appoint such assistants and employees as may be necessary to assist him in the proper performance of his duties and for which appropriations shall have been made;
- (d) Foster and develop, in cooperation with appointing authorities and others, programs for the improvement of employee efficiency;
- (e) Cooperate fully with appointing authorities in the administration of this chapter and chapter 3 in order to promote public service and establish conditions of service which will attract and retain employees of character and capacity, and to increase efficiency and economy in governmental departments by the improvement of methods of personnel administration with full recognition of the requirements and needs of management;
- (f) Encourage and exercise leadership in the development of ef-

fective personnel administration within the several departments in civil service and make available the facilities of the department of civil service to this end;

(g) Investigate from time to time the operation and effect of this chapter and chapter 3 and of the rules adopted thereunder and to report his findings and recommendations to the commission; and

(h) Develop and maintain a position classification plan; and

(1) Create and adjust classes of positions and adopt class specifications including title, description of typical duties and responsibilities, statement of training and experience and other requirements to be met by applicants, covering all positions;

(2) Allocate each position and each newly created position to the appropriate class;

(3) Reallocate positions to recognize material changes in duties and responsibilities or to correct a previous action.

(4) Determine the status of employees holding positions affected by classification actions.

(i) Perform any other lawful acts deemed by him to be necessary or desirable to carry out the purposes and provisions of this part.

The director may designate a qualified employee of the department of civil service as his deputy. Except in the case of temporary assignments as such deputy, any such employee shall be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration. In case of a vacancy in the office of director or of the absence of the director or his inability from any cause to discharge the powers and duties of his office, such powers and duties shall devolve upon his deputy. The director may select officers or employees in the territorial service to act as subject-matter consultants in the preparation and rating of examinations. An appointing authority may excuse any officer or employee in his department from his regular duties for the time required for his work as a subject-matter consultant.

Officers and employees shall not be entitled to extra pay for services as such consultants but shall be entitled to reimbursement for necessary traveling and other expenses.

**Sec. 77. Civil service and exemptions.** The civil service to which this part shall apply comprises all positions in the territorial service now existing or hereafter established and embraces all personal services performed for the Territory, except the following:

(a) Commissioned and enlisted personnel of the national guard of Hawaii as such, and positions in the national guard of Hawaii which are required by territorial or federal laws or regulations, or orders of the national guard, to be filled from such commissioned or enlisted personnel;

(b) Positions filled by persons employed by contract where the director has certified and where such certification has received the approval of the commission that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot

be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;

(c) Service of a temporary nature needed in the public interest where the need for the same does not exceed 90 days, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable, **provided**, that the employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed 90 days upon similar certification by the director, approved by the commission;

(d) Positions filled by the legislature of the Territory or by either house or any committee thereof;

(e) Employees in the office of the governor and household employees at Washington Place;

(f) Positions filled by popular vote;

(g) Department heads, officers and members of any board, commission or other territorial agency whose appointments are made by the governor or are required by law to be confirmed by the senate of the Territory;

(h) Judges, referees, receivers, masters, jurors, jury commissioners, notaries public, landcourt examiners, court commissioners and attorneys appointed by a territorial court for a special temporary service;

(i) One secretary or clerk for each justice of the supreme court and each judge of the circuit court and one law clerk for each justice of the supreme court;

(j) Assistant and deputy attorneys general;

(k) Teachers, principals, vice principals, district superintendents, chief deputy superintendents, and other certificated personnel in the department of public instruction, not engaged in instructional work, and members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work and chief administrative personnel of the university;

(l) Inspectors of election, election clerks and other election employees;

(m) Positions filled by inmates, kokuas, patients and students of territorial institutions;

(n) Positions filled by persons employed on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the Territory;

(o) One first deputy or first assistant and one private secretary of each department head appointed under or in the manner provided in the first paragraph of Section 80 of the Hawaiian Organic Act; and

(p) Positions specifically exempted from the provisions of this part by any other law; **provided**, however, that all of the positions de-

fined by subparagraphs (i) and (o), shall be included in the position classification plan.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on the effective date of this Act.

**Sec. 78. Rules and regulations; policies and standards.** The commission shall prescribe rules and regulations to carry out the provisions of this chapter which, after public notice and public hearing before the commission and upon approval by the governor, shall have the force and effect of law. Such rules and regulations may be amended or repealed in like manner as the same were adopted. Such rules and regulations shall, among other things, recognize and be in conformity to the distinction between matters of policy, which are by this chapter and chapter 3 left for the determination of the commission, and matters of technique and administration, which are by said chapters, left for execution by the director, shall be in conformity to principles of good public administration and shall be in conformity to the following provisions:

(a) Examinations, general character. There shall be competitive examinations for testing of the relative fitness of applicants for positions in civil service. Such examinations shall be practical in their character and so far as possible shall provide for ascertaining the physical and educational qualifications, experience, knowledge and skill of applicants and their relative capacity and fitness for the proper performance of the characteristic duties of the class of positions in which they seek to be employed. All examinations shall be public and, except as otherwise provided by law, free and open to all citizens of the Territory, but with such limitations as to health, physical condition, age, sex, education, training, experience, habits and character as the director may deem necessary and proper for the class for which the examination is to be given. Examinations may be oral or written or partly oral and partly written, or tests of manual skill and physical strength, or evaluations of training and experience backgrounds. Except when clearly required by the nature of the service to be performed, written examinations shall not be required of applicants for unskilled labor classes. All examinations shall be under the control of the director, or such suitable person or persons as he may designate to conduct them.

(b) Promotional examinations. Examinations may be promotional examinations, which shall be limited to regular employees in the civil service, whenever in the opinion of the director the same is practicable and for the best advantage of the public service. Promotional examinations may be either intra-departmental or inter-departmental in scope. Whether a promotional examination is to be intra-departmental or inter-departmental shall be decided by the director. Ample notice shall be given by the director of the fact that any promotional examination is to be conducted.

(c) Open-competitive examinations. Examinations shall be open-competitive whenever in the opinion of the director they are for the

best advantage of the public service. In making such determination, the director shall take into consideration the sufficiency of competition within civil service as well as the requirements of the class for which such examinations are to be conducted. Ample notice shall be given by the director of the fact that any open-competitive examination is to be conducted. The director may, if he deems it necessary because of lack of sufficient competition or any other reason, extend the time for the filing of applications.

(d) Non-competitive examinations. Non-competitive examinations may be given when, in the opinion of the director, the class for which an examination is to be given calls for special qualifications and training which do not admit of competition.

(e) Filling vacancy. All vacancies and new positions in civil service shall be filled in the manner prescribed in this part or in section 451.

Whenever there is a position to be filled, the appointing authority shall request the director to submit a list of eligibles. The director shall thereupon certify a list of five or such fewer number as may be available, taken from eligible lists in the following order: first the promotional lists, second the reemployment lists and third the open competitive lists. The director shall submit eligibles in the order that they appear on the eligible list. In any case where there are three or more eligibles in one department whose names appear as eligibles on an inter-departmental list, upon the request of the appointing authority of such department such three or more names shall be certified to him as eligibles on an intra-departmental eligible list; but where such an inter-departmental list has been in existence for more than six months and there are five or more persons in the department qualified for the class, the department may request an intra-departmental promotional examination, in which case the director shall hold either an inter-departmental or an intra-departmental promotional examination. The order in which eligibles are placed on eligible lists shall be fixed by rule. The appointing authority shall make the appointment only from the list of eligibles certified to him unless he finds no person acceptable to him on the list certified by the director, in which case he shall reject such list and request the director to submit a new list, in which event the director shall submit a new list of eligibles selected in like manner, **provided** that the appointing authority states his reasons in writing for rejecting each of the eligibles on the list previously certified to him and such reasons are deemed sufficient by the commission. Eligible lists, other than reemployment lists, shall be effective for one year but this period may be extended by the director.

An appointing authority may fill a vacant position in his department by promoting any regular employee in such department, without examination, if the employee meets the minimum class qualifications of the position to which he is to be promoted. Such a promotion without examination may be only to a position in the same series which is not more than two salary ranges higher than the position held by such employee.

An appointing authority may fill an unskilled labor position, or

a skilled labor or trade position in his department by promoting any regular employee in such department if the employee meets the minimum class qualifications of the position to which he is to be promoted and has successfully proven his ability to do the work through the means of a performance test, **provided** that an employee in any unskilled (non-competitive) class may be so promoted to a skilled labor or trade (competitive) class only upon his having completed not less than two years actual service as such skilled laborer or tradesman. This paragraph shall not apply to any position or class if the application thereof to such position or class will jeopardize the receipt by the Territory or any county of any federal grant in aid or other federal allotment of money.

Any regular employee receiving any such promotion without examination shall be ineligible for a second such promotion without examination prior to his having completed two years of satisfactory service in the position to which he was so promoted, but he may at any time be eligible for a promotion to any position through examination.

(f) Unskilled labor; separate eligible and registration lists. There may be separate eligible lists for different kinds of unskilled labor and separate registration lists of unskilled labor for particular departments, institutions, districts or localities. Applicants seeking to have their names placed on such registration lists may be required to pass such examination as the director may deem proper or necessary with respect to physical and mental health, ability to do manual labor and habits.

(g) Reemployment lists. Whenever any employee who has been performing his duties in a satisfactory manner, as shown by the records of the department of civil service or the agency in which he has been employed, is laid off or demoted because of lack of work or lack of funds, has voluntarily accepted a position in a lower class, has resigned in good standing with the consent of the appointing authority, is retired for ordinary disability, or whenever his position has been reclassified to a lower class, he shall have the right to have his name placed on the appropriate reemployment list for a period of three years thereafter, **provided** that he files a written application for reemployment within three years after such termination. A person on a reemployment list shall be deemed eligible for certification to positions in the class in which he last held a permanent status.

Whenever an employee has been laid-off because his position has been abolished or because of lack of funds to compensate him in that position, such employee shall have the right to have his name placed on appropriate reemployment lists and be deemed eligible for certification to positions in the class in which he last held permanent status in a related class in the same or lower grade for which he meets the qualification requirements.

The director may remove the name of a person on any reemployment list or refuse to certify his name on any list of eligibles, if he finds, after giving him notice and an opportunity to be heard, that such person is no longer able to perform the necessary duties satisfactorily.

(h) All employees shall successfully serve an initial probation period before becoming members of the civil service. In addition, membership in the civil service shall require that the employee shall have been appointed in accordance with law and shall have satisfied all the requirements for employment prescribed by this chapter or by the rules and regulations promulgated thereunder including those qualifications prescribed by section 451. A member who is promoted or transferred to another position in the civil service may be required to serve a new probation period in his new position, but he shall be entitled to all the rights and privileges of a member of the civil service, except the right to appeal in case of a dismissal from the new position (as distinguished from dismissal from the service) for inefficiency in the new position, during his probationary period, in which case he shall be returned to his former position.

(i) Prompt notice shall be given to the director in writing by all appointing authorities of all appointments, terminations of employment, transfers, resignations, demotions, and dismissals, of the date thereof and a full explanation of the reasons therefor. A record of the same shall be kept by the director.

(j) No person who has been convicted of any felony, or who has committed or attempted any deception or fraud in connection with any application or examination, shall be eligible for any appointment in the civil service.

(k) Every member of the civil service shall be entitled to hold his position during good behavior, subject to suspension, demotion or dismissal only as provided in this chapter and in the rules and regulations of the department of civil service. Resignations shall be in writing. In case an employee resigns without submitting his resignation in writing, the department head shall, within fifteen days following such resignation, file with the director a statement showing such termination of employment.

(l) The director may authorize the filling of a vacant position by a provisional appointment whenever no eligible list is available for such position, but only when such action is required in order to prevent stoppage of essential public business. Upon the director exercising such authority, he shall proceed without delay to hold an examination for the establishment of an eligible list to fill such vacancy. In the event that no eligible list results and **provided** that the necessities of public business still require the exercise of such authority by the director, the provisional appointee may be appointed for a second such appointment but both shall not exceed in the aggregate a period of 180 days in any twelve-month period and such provisional appointee may not under any condition receive a third provisional appointment. Short term appointments, not to exceed ten working days, may be made to fill positions temporarily in any serious emergency when it is not practicable to ascertain whether there is an eligible list from which to make a careful selection.

(m) Educational leaves; other leaves. Any regular employee may be granted a leave of absence not to exceed one year by the department head in order to pursue a course of instruction, to engage



in research or otherwise to improve his ability and increase his fitness for public employment. When such employee has carried out the plan stated by him at the time such leave was granted, he shall have the right to return to his position at the expiration of his leave of absence. Any such leave may for good cause be extended for a period not to exceed one year but, in such event, all of the original conditions of the leave shall be complied with. Leaves of absence may also be granted by the appointing authority to regular employees for such other reasons or to non-regular employees as may be provided by rule and in such cases the employee shall have the right to return to his position at the expiration of his leave.

(n) Sabbatical leave. Any employee who has been employed by the Territory or any county for seven consecutive years may upon application to and with the approval of his department head be granted a sabbatical leave of absence by the appointing authority for not more than one year, **provided** that the two years of employment next preceeding such application shall have been with the same department. Such employee shall have the right to return to his position at the expiration of the sabbatical leave of absence. The resulting vacancy shall be filled by the appointment of a substitute for a period not to exceed the duration of the leave. Such substitute shall be paid the minimum compensation provided by law for the position. The difference between the minimum compensation and the actual compensation received by the employee at the time such leave was granted shall be paid to him upon his return to his position in monthly installments for a period equal to his leave, but no such installment shall be payable unless he returns to his position and remains in the employ of the department which granted him the leave. An employee on sabbatical leave shall not engage in any form of employment except such as shall tend to promote his professional education and training and as shall be approved by his department head, and every such employee shall devote at least two-thirds of the period of leave to such educational activities as will contribute to the value of his services to the Territory. An employee granted sabbatical leave shall not by reason thereof be deprived of any accumulated vacation allowance or sick leave but shall accrue no additional vacation allowance or sick leave during the period of such leave. Upon the employee's return from sabbatical leave he shall have the same salary rating that he had at the time of taking such leave and his increment date shall be advanced equivalent to the duration of the leave.

(o) Maternity leave. Any regular employee who has had more than one year of service in the civil service immediately prior to the application shall be entitled to apply in writing to her department head or other superior officer for and to receive upon such application maternity leave without pay from her office or employment for a period of six months before her expected date of confinement and six months after her confinement or for any part of such period, as shall be provided by rule. Extended leave may be granted for good cause, but if so extended the employee shall be given only re-employment rights as provided by Section 78(g).

demoted or dismissed from his position on racial, religious or political grounds.

**Sec. 80 Suspensions.** An appointing authority may, for disciplinary purposes, suspend any employee without pay for such length of time as he considers appropriate but not exceeding thirty days at any one time nor more than sixty days in any calendar year. No single suspension for a period of five working days or more, whether consecutively or not, shall take effect unless the appointing authority gives the employee a written notice setting forth the specific reasons upon which such suspension is based and files a copy of such statement with the director. With the approval of the director, an employee may be suspended for a period longer than thirty days pending an investigation or hearing of any charge against him.

An employee who is suspended for a period not in excess of four working days, whether consecutively or not, may protest the suspension under the grievance procedures.

**Sec. 81. Dismissals; demotions.** An appointing authority may dismiss or demote any employee when he considers that the good of the service will be served thereby. Dismissals may be made only for such causes as will promote the efficiency of government service.

No dismissal or demotion of a regular employee shall be effective for any purpose unless at least ten days before the effective date thereof the appointing authority shall have given to such employee a written statement setting forth the specific reasons upon which such dismissal or demotion is based and filed a copy of such statement with the director.

**Sec. 82 Appeals from suspensions, dismissals and demotions.** Any regular employee who is suspended for a period in excess of four working days, whether consecutively or not, or is dismissed or demoted, may appeal to the commission within twenty days after notice has been sent him of such suspension, dismissal or demotion. Upon such appeal, both the appealing employee and the appointing authority shall have the right to be heard publicly, present evidence and be represented by counsel, who shall have the right to examine and cross examine witnesses. At such hearing technical rules of evidence shall not apply and the evidence shall be taken stenographically or recorded by machine. For the purpose of hearing such appeals fairly and expeditiously, the commission may at any time and the special appeal board shall, whenever such action is taken against the director, appoint a competent and qualified disinterested person to act as its hearing officer. Such hearing officer shall hear the matter in the same manner as if it were before the commission and upon the conclusion of the hearing, shall report his findings of fact and his conclusions and recommendations based thereon to the commission and to the employee. The employee shall have the right to a hearing before the commission on the conclusions and recommendations of the hearing officer, if the employee so requests in writing within ten days after receipt of the findings, conclusions and recommendations.

If the commission finds that the action appealed from was taken

by the appointing authority for any political, religious or racial reason, the employee shall be reinstated to his position without loss of pay for the period of his suspension or separation therefrom. In all other cases, if the commission shall find that the reasons for the action are not substantiated in any material respect, the commission shall order that the employee be reinstated in his position, without loss of pay, but if the commission shall find that the reasons are substantiated or are only partially substantiated, the commission shall sustain the action of the appointing authority, **provided** that the commission may modify the action of the appointing authority if it shall find the circumstances of the case so require and may thereupon order such disposition of the case as it may deem just.

When an employee is dismissed and not reinstated after such appeal, the commission, in its discretion, may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than one from which he had been removed.

Whenever the director is suspended, demoted or dismissed, he may appeal by filing a written notice thereof with the governor within twenty days after notice has been sent him of such suspension, dismissal or demotion. Within sixty days after receipt of such notice, the governor shall appoint a special appeal board of three persons, each of whom shall have knowledge of and believe in applying merit principles to public employment. Within thirty days after it is appointed, the appeal board shall hold a hearing on the appeal and shall be governed therein by the rules of and have all of the powers and authority therein of the commission as set forth in this section.

✓ The findings and decisions of the commission and, with respect to a director, of the special appeal board shall be final on all such appeals, **provided** that this shall not prevent appeals to the appropriate circuit court upon the ground that the determination made by the commission was made in manifest abuse of its discretion, was arbitrary and capricious or was clearly contrary to the evidence.

**Sec. 83. Appeals from action of director or appointing authority.** As to any matter within the scope of this part, any person suffering legal wrong because of any action by the director or his appointing authority, or adversely affected or aggrieved by such action, shall be entitled to appeal to the commission. The appeal shall be made within twenty days after notice of the action has been sent to such person and shall be heard in a manner similar to that provided in this chapter.

**Sec. 84. Subpoenas, oaths.** The commission shall have such powers as may be provided by law with respect to compelling the attendance of witnesses and administering oaths to witnesses, and as to all matters within the scope of his authority the director and any hearing officer shall have similar powers.

**Sec. 85.** Every officer and employee, including any appointing authority shall promptly make such reports and file such statements as may be required by the provisions of this part or the rules and regulations prescribed thereunder. In case any officer or employee refuses or fails within the prescribed, or within a reasonable time to

(p) Exchanges and transfers within Territory. Provision shall be made for the exchange and transfer of employees in the civil services of the Territory and the counties, including exchanges between the Territory and any county or between counties, and transfers from the Territory to any county or vice versa or from any county to any other county. Such exchanges and transfers shall require the approval of the department heads and the director or directors.

(q) Exchanges with states. The civil service commission of the Territory shall promulgate a uniform plan for the exchange of employees within the civil services of the Territory and the counties with the employees of any state or subdivision thereof and such plan shall uniformly apply to the Territory and all counties. The following conditions shall govern such exchanges:

(1) Each person coming to the Territory on exchange shall have qualifications substantially equal to those of the employee who is exchanged for him.

(2) The person exchanged from the Territory shall have served within the Territory as an employee of the Territory or county, as the case may be, not less than three years before the beginning of the exchange period.

(3) In the selection of employees for exchange from the Territory, preference shall be given to persons born in the Territory.

(4) The person exchanged by any state or subdivision thereof shall hold in the government of such state or subdivision a position which is substantially equivalent to the position of the employee for whom he is exchanged.

(5) The person exchanged from the Territory shall be paid his regular salary by the Territory or county, as the case may be, but nothing in addition thereto.

(6) The Territory or county, as the case may be, shall not pay any traveling or other expenses of any person or employee exchanged to or from the Territory on any contract of exchange, and this prohibition shall apply to all traveling, transportation, board, lodging or other expenses incidental to or arising out of such exchange.

(7) The Territory or county, as the case may be, shall not pay any compensation to any person coming to the Territory under any contract or exchange; **provided** that in any case where the person exchanged from the Territory becomes incapacitated or for any reason leaves his exchange position during the period of the exchange, the Territory or county, as the case may be, may reimburse the employer of the visiting exchange person an amount not to exceed the salary of the person exchanged from the Territory, until the end of the exchange period or until such time as some adjustment satisfactory to the Territory or county is made. Contracts of exchange shall provide that in a corresponding situation the exchange state or subdivision thereof shall reimburse the employer of the employee exchanged from the Territory.

(8) No such exchange shall be for a period in excess of one year.

(r) In-service training. The director shall initiate and provide

suitable in-service training programs so that the quality of service rendered by government employees may be continually improved. The director shall be responsible for the coordination of the in-service training activities of all departments of government with related activities conducted by the University of Hawaii or the department of public instruction.

(s) Official class titles established by the director shall be used for personnel, budget and fiscal purposes, but this requirement shall not prevent the use of other titles for internal administration, public convenience, law enforcement or similar purposes;

(t) When an individual position is reallocated to a class with a lower salary range, the incumbent of such position shall be placed on a reemployment list for the class to which his position was formerly allocated, if this class is retained, or for a class comparable to such former class if the same is not retained.

(u) There shall be established and maintained a system of performance ratings for the purpose of appraising the service of employees in the civil service and improving employees' performance. Each department shall rate each employee under its jurisdiction in accordance with such system and shall transmit the final ratings to the director.

The department head shall inform an employee in writing whenever his performance in his position is substandard. The employee shall also be notified in such notice and from time to time thereafter as may be necessary, of the manner in which his performance is substandard. Continued substandard performance for a period of three months after such written notice may be used as the basis for denying any step increment. Any employee who has been denied a step increment may be subsequently granted an increment whenever his performance has been brought up to standard and has so continued for any three-month period. The denying of a step increment shall be a subject for grievance procedures. No action taken under this subsection shall change or in any way affect the employees service anniversary date.

(v) Grievance procedures. The commission shall promulgate a uniform plan for the creation of grievance procedures in the various departments. The rules and regulations relating to grievance procedures shall conform to the following principles:

(1) An employee may, without resort to formal procedures, discuss informally any problem relating to his conditions of employment with any of his supervisors.

(2) In presenting a grievance, the employee shall be assured freedom from coercion, discrimination or reprisal.

(3) An employee shall have the right to be represented by a person or persons of his own choosing at any stage in the presentation of his grievance.

(4) All proceedings relating to the handling of employee grievances shall so far as practicable be conducted during office hours.

**Sec. 79. Racial, religious or political consideration barred.** No person holding any position in the civil service shall be suspended,

make any such report or file any such statement, the commission may notify the auditor of such refusal or failure, and upon such notification, the auditor shall withhold any compensation payable to such officer or employee until such time as the commission or the director shall notify the auditor in writing that such officer or employee has made such report or filed such statement.

**Sec. 86. Certification of payrolls:**

(a) No territorial or county disbursing or auditing officer shall make or approve or take any part in making or approving any payment for personal service to any person holding a position in the territorial service unless payroll certification has been made by the director or his authorized agent that the person named therein has been appointed and employed in accordance with the provisions of this chapter and the rules, regulations, and orders thereunder. The director may for proper cause withhold payroll certification for any position or positions in the territorial or county service, as the case may be.

(b) Any citizen may maintain a suit to restrain a disbursing officer from making any payment in contravention of any provision of this part, rule or order thereunder. Any sum paid contrary to any provision of this part or of any rule, regulation or order thereunder may be recovered in an action maintained by any citizen from any officer who made, approved, or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment or from the sureties on the official bond of any such officer. All money recovered in any such action shall be paid into the territorial or county treasury, as the case may be.

(c) Any person appointed or employed in contravention of any provision of this part, or of any rule, regulation or order thereunder who performs service for which he is not paid may maintain an action against the officer or officers who purported so to appoint or employ him to recover the agreed pay for such services or the reasonable value thereof if no pay is agreed upon. No officer shall be reimbursed at any time for any sum paid to such person on account of such services.

(d) If the director wrongfully withholds payroll certification for a position in the territorial service held by any employee, such employee may maintain a proceeding in the courts to compel the director to certify such payroll.

**Sec. 87.** Employees of activities purchased or acquired by the Territory or by a county who as of the date of purchase or acquisition have been employed by such activities for at least one full year may, by action of the commission, be given status as a regular employee of the civil service without competitive examination. Employees of such activities who have been employed at least six full months by such activities may, by action of the commission, be given an initial probationary appointment without competitive examination. Positions held by such employees shall be allocated to the appropriate class in the position classification plan and employees shall be paid in accordance with the salary range to which such class

is assigned; **provided**, however, that employees receiving a salary above the minimum rate while employed by such activities may be paid at a rate higher than the minimum but not exceeding the maximum.

**Sec. 88. Membership of civil service.** All regular employees and all other employees having a permanent appointment in civil service pursuant to law shall constitute the membership of the civil service, but no employee shall be entitled to membership in civil service unless he has been appointed in accordance with law and has satisfied all requirements for employment, including those prescribed by sections 358 and 451.

## PART II

### CIVIL SERVICE FOR THE CITY AND COUNTY OF HONOLULU

**Sec. 89. Department of civil service.** There is hereby created a department of civil service for the city and county of Honolulu which shall include a personnel director and a commission consisting of five members appointed by the mayor with the approval of the board of supervisors.

**Sec. 90. Civil service and exemptions.** The civil service to which this part shall apply comprises all positions in the city and county now existing or hereafter established and embraces all personal services performed for the county, except the following:

(a) Positions in the office of mayor, but such positions shall be included in the position classification plan;

(b) Positions of officers elected by public vote; positions of heads of departments whose appointments are made by the mayor with the approval of the board of supervisors; position of manager of the board of water supply and position of chief of police;

(c) Positions of deputy city and county attorneys, assistant public prosecutors and law clerk;

(d) Positions of members of any board, commission, or agency;

(e) Positions filled by inmates, patients, or students in city and county institutions or in the schools;

(f) Positions of district magistrates, jurors, jury commissioners and witnesses;

(g) Positions filled by persons employed by contract where the director has certified and where such certification has received the approval of the commission that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.

(h) Services of a temporary nature needed in the public interest where the need for the same does not exceed 90 days, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary

nature and that recruitment through normal civil service recruitment procedures is not practicable; **provided**, that the employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed 90 days upon similar certification by the director, approved by the commission;

(i) Positions filled by persons employed in a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the city and county and such fact is certified to by the director.

(j) Positions of temporary election clerks in the office of the city and county clerk employed during election periods;

(k) Positions specifically exempted from the provisions of this part by any other law; and

(l) Positions of one first deputy or first assistant and one private secretary of heads of departments who are elected by popular vote or whose appointments are made by the mayor with the approval of the board of supervisors, but such positions shall be included in the position classification plan.

The director shall determine the applicability of this section to specific positions and the director shall determine whether or not positions excluded by subparagraphs (g) and (h) of this section shall be included in the position classification plan.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on the effective date of this Act.

**Sec. 91. Provisions of part I applicable.** Except as otherwise specifically provided in this part, all of the provisions of part I of this chapter shall apply to the city and county of Honolulu and shall be deemed a part of this Part, for which purpose wherever reference is made in the preceding Part to the Territory or governor or the legislature, they shall be construed to mean the city and county of Honolulu, the mayor of the city and county and the board of supervisors of the city and county, respectively, and references therein to the director and the commission shall mean the director and the commission provided for in section 87; **provided**, however, that section 77 shall not be deemed a part of this Part.

### PART III CIVIL SERVICE FOR THE COUNTIES OF HAWAII, MAUI AND KAUAI

**Sec. 92. Department of civil service.** There is hereby created a department of civil service for each of the counties of Hawaii, Maui and Kauai, which shall include a personnel director and a commission consisting of five members appointed by the chairman of the board of supervisors with the approval of the board of supervisors of the respective county.



**Sec. 93. Civil service and exemptions.** The civil service to which this part shall apply comprises all positions in the public service of each county, now existing or hereafter established and embraces all personal services performed for each county, except the following:

(a) Positions in the office of the chairman of the board of supervisors, but such positions shall be included in the position classification plan.

(b) Positions of officers elected by public votes; positions of heads of departments whose appointments are made by the county chairman with the approval of the board of supervisors; position of manager of the board of water supply and position of chief of police;

(c) Positions of deputy county attorneys, and law clerk;

(d) Positions of members of any board, commission, or agency;

(e) Positions filled by inmates, patients, or students in county institutions or in the schools;

(f) Positions of district magistrates, jurors, jury commissioners and witnesses;

(g) Positions filled by persons employed by contract where the director has certified and where such certification has received the approval of the commission that the service is special or unique, is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform such service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year.

(h) Services of a temporary nature needed in the public interest where the need for the same does not exceed 90 days, but before any person may be employed to render such temporary service the director shall certify that the service is of a temporary nature and that recruitment through normal civil service recruitment procedures is not practicable; **provided**, that the employment of any person for service of a temporary nature may be extended for good cause for an additional period not to exceed 90 days upon similar certification by the director, approved by the commission;

(i) Positions of temporary election clerks in the office of the county clerk employed during election periods;

(j) Positions specifically exempted from the provisions of this part by any other law; and

(k) Positions of one first deputy or first assistant and one private secretary of heads of departments who are elected by popular vote or whose appointments are made by the county chairman with the approval of the board of supervisors, but such positions shall be included in the position classification plan.

(l) Positions filled by persons employed on a fee, contract or piecework basis who may lawfully perform their duties concurrently with their private business or profession or other private employment, if any, and whose duties require only a portion of their time, where it is impracticable to ascertain or anticipate the portion of time devoted to the service of the county and such fact is certified to by the director.

The director shall determine the applicability of this section to specific positions and the director shall determine whether or not positions excluded by subparagraphs (g) and (h) of this section shall be included in the position classification plan.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on the effective date of this Act.

**Sec. 94. Provisions of Part I applicable.** Except as otherwise specifically provided in this Part, all of the provisions of Part I of this chapter shall apply to each of the counties of Hawaii, Maui and Kauai and shall be deemed a part of this Part, for which purpose wherever reference is made in Part I to the Territory or governor or the legislature, they shall be construed to mean each of said counties, the chairman of the board of supervisors of each county, and the board of supervisors of each county, respectively, and references therein to the director and the commission shall mean the director and the commission provided for in section 92, **provided**, however, that section 77 shall not be deemed a part of this Part.

**Sec. 95. Director employees' retirement system representative.** In addition to the duties prescribed by section 76, the director of each county shall represent the employees' retirement system of the Territory, when so requested by the board of trustees of said system, in advising employees of their rights, duties and benefits thereunder, in processing the forms prescribed by said board of trustees and in giving other assistance with respect thereto.

#### PART IV. CERTAIN ACTIONS UNLAWFUL

**Sec. 96. Political activities.** No person in the civil service shall (a) use his official authority or influence for the purpose of interfering with an election or affecting the result thereof; (b) use his official authority or influence to coerce the action of any person or party; (c) be obliged to contribute to any political fund or to render any political service, nor shall he be removed or otherwise prejudiced for refusing to do so or (d) solicit or receive any political contribution from any officer or employee, or from any person in any territorial or county building or from any person receiving any benefit under any law of the Territory appropriating funds for relief or public assistance or discriminate in favor of, or against, any officer or employee on account of a political contribution.

The foregoing prohibited activities shall not be deemed to preclude the right of any person in the civil service to vote as he chooses and to express his opinions on all political subjects and candidates, nor, to be a member of any political party, organization or club. Any person in the civil service may make voluntary contributions to a political organization for its general expenditures. 'Contribution' includes a gift, subscription, loan, advance or deposit of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make a contribution.

**Sec. 97. Other prohibited activities and penalties.** No recommendation of any person who shall apply for examination or ap-

pointment to any office or position under the provisions of this chapter which may be given by an elected officer of the Territory or any county except as to the ability or character of the applicant, shall be received or considered by any person concerned in the giving of any examination or the making of any appointment under this chapter.

It shall be unlawful for any candidate for election to any public office or for any public officer or employee, any portion of whose compensation is paid by the Territory or any county directly or indirectly, to solicit or assess any contribution or assessment for any political purpose whatever from any member of any civil service created under this chapter.

No person shall, in any room or building occupied in the discharge of official duties by any public officer or employee, solicit in any manner whatever or receive any contribution of money or other things of value from any public officer or employee for any political purpose whatever.

No public officer or employee shall discharge, promote or demote or in any manner change the status or compensation of any other public officer or employee or promise or threaten so to do for giving or withholding or neglecting to make any contribution of money or other things of value for any political purpose whatever.

No public officer or employee shall directly or indirectly hand over to any other officer or employee any money or other things of value on account of or to be applied to the promotion of any political object whatever.

No public officer or employee shall discharge, promote or demote or in any manner change the status or compensation of any other public officer or employee or promise or threaten so to do because of the political or religious actions or beliefs of such other officer or employee or for the failure of such other officer or employee to take any political action for any political purpose whatever or to advocate or fail to advocate the candidacy of any person seeking an elective office.

Any person who violates any of the provisions of this section shall be fined not more than \$500 or imprisoned not more than one year or both.

**Sec. 98. Membership in organizations; grievances and proposals.** Membership in any association or organization of public employees not affiliated with any other organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, by any person in civil service, or the presenting by any such person or groups of persons of any grievance or proposal to the legislature or any public officer or body, shall not constitute or be cause for reduction in rank or compensation or removal from said service. The right of any individual officer or employee in civil service, or any group of officers or employees, or of officers and employees, to present grievances or to petition for redress of grievances to the legislature or any member thereof, or any other public officer or body, shall not be denied or interfered with. Further, no person in said service shall be required as a condition of employment

or promotion to be a member of any association or organization.

**Sec. 99. Veteran's preference.** (a) As used in this section: 'Veteran' means any person who has served during any period when the United States was at war, including the conflict in Korea on or after June 27, 1950 and before February 1, 1955, in any branch of the armed forces of the United States and has been honorably separated therefrom or honorably discharged from active service and placed in reserve;

'Disabled veteran' means any veteran who is suffering from any physical disability rated as at least ten per cent and service connected and incurred during any period when the United States was at war, as certified by the veterans' administration or any retirement board of any branch of the armed forces of the United States; and

'Deceased serviceman' means any veteran or disabled veteran who has deceased as the result of service incurred injury, or any person who would have been a veteran or disabled veteran except for the fact that he deceased before separation or discharge from the branch of the United States armed forces in which he was serving at the time of his decease while the United States was at war.

(b) In any open-competitive examination, but not in any promotional examination, given pursuant to this chapter, the following credits shall be given to the following persons:

(1) To each candidate who is a veteran (other than a disabled veteran), a credit of five per cent of the total credits specified for such examination;

(2) To each candidate who is a disabled veteran, a credit of ten per cent of the total credits specified for such examination;

(3) To each candidate who is the wife of a disabled veteran neither in government service nor a candidate, or who is the widow of a deceased servicemen (provided she shall not have remarried), a credit of ten per cent of the total credits specified for such examination.

The credits provided for in this section shall be added to the credits attained in examination and the total of such sum shall be used in determining the rank of eligibles, provided that the credits attained in examination satisfy the minimum passing grade of each part of the examination.

**Sec. 100. Confirmation of previous appointments.** The appointment of all officers and employees of the Territory and its political subdivisions who were appointed prior to July 1, 1951, to positions covered by chapter 2 of the Revised Laws of Hawaii 1945, as amended, and who had served their probationary periods prior to said date, are hereby approved, ratified, and confirmed; and no such officer or employee shall be dismissed or have his compensation suspended or terminated or his appointment otherwise prejudiced by reason of any non-compliance with the requirements of the civil service laws and rules and regulations in the making of his appointment, provided that this section shall not apply to any such person who has been convicted of any crime involving moral turpitude, or who has been guilty of infamous or disgraceful conduct, or who has committed or attempted any deception or fraud in con-

nection with any application or examination for any position in the civil service."

**SECTION 2.** Sections 101 to 124, inclusive, of chapter 3, Revised Laws of Hawaii 1945, as amended, are hereby further amended to read as follows:

**"CHAPTER 3. COMPENSATION LAW.**

**Sec. 101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise;

- (1) 'Commission' means the civil service commission;
- (2) 'Class' or 'class of positions' means a group of positions sufficiently similar with respect to duties, authority and responsibilities so that the same title may reasonably be required for, and the same salary range may apply to, each position allocated to the class;
- (3) 'Position classification plan' means classes of positions arranged in a logical and systematic order;
- (4) 'Compensation' means any salary, wage, fee or other cash emolument paid to an employee for service in a position;
- (5) 'Department' includes any department, court, board, commission or agency of the Territory, of the city and county or of any county;
- (6) 'Director' means the personnel director of the department of civil service of the Territory;
- (7) 'Employee' means a person holding a position in accordance with the provisions of chapter 2, as amended, whether permanently or otherwise;
- (8) 'Position' means a group of current duties and responsibilities legally assigned or delegated by competent authority to an officer or employee and performed on either a full or part-time basis;
- (9) 'Salary range' means the group of salary rates from minimum to maximum to which a class may be assigned;
- (10) 'Salary schedule' means the schedule of salary ranges set forth in section 110;
- (11) 'Compensation plan' is the result of the assignment of all classes in the position classification plan to appropriate ranges in the salary schedule;

**Sec. 102. Purpose of this chapter; statement of policy.** It is hereby declared to be the purpose of this chapter to establish a sound territory-wide system under which it will be possible to attract and retain competent persons for the government service, to establish and maintain a high level of efficiency of such employees and to adequately compensate them for the work they do.

It is also declared to be the purpose of this chapter that in so compensating employees in the civil service, due consideration shall be given to a decent standard of living and to the ability of the people to pay for such service. In order to effectively achieve this purpose, it is the declared policy of the Territory that the compensation for public employees be set and determined after careful consideration of at least the following factors:

- (a) The general economic condition of the Territory;

- (b) Conditions of the labor market;
- (c) The appropriate cost of living index;
- (d) The minimum standard of living which is compatible with decency and health;
- (e) The amount of compensation which is offered by employers competing for labor sought by the Territory with due consideration being given to compensation offered or paid of a non-monetary character and with proper concern over apparent economic trends.

The director shall conduct the necessary and appropriate annual studies in order that the purposes and policies expressed in this section will be effectively achieved and complied with. The director is authorized to enter into cooperative arrangements with other public and private agencies in the conduct of such annual studies. The results of such studies shall be submitted annually to the governor and the legislature.

**Sec. 103. Coverage.** This chapter shall apply to all classes of positions covered by the position classification plan as provided for by chapter 2.

**Sec. 104. Functions of the director.** The director shall maintain the compensation plan by assigning new classes to appropriate salary ranges in the salary schedule and reassigning classes to appropriate salary ranges whenever internal salary relationships are disrupted by modifications or revisions to an existing class or classes or whenever review of the plan discloses a need for salary adjustments for a class or classes. All new assignments shall be effective immediately if the availability of funds is certified to by the director of the bureau of the budget.

In assigning classes to salary ranges, the respective directors and, upon appropriate review, the respective commissions shall be guided by the principle that employees shall be compensated in accordance with the relative levels of difficulty and complexity of the work they do and that throughout the Territory work of substantially equal difficulty and complexity will be compensated for in a uniform manner without regard to the particular job title that may be assigned to the work or to the position.

**Sec. 105. Functions of the commission.** The commission shall:

(a) Prescribe rules to carry out the provisions of this chapter. Upon the approval of the governor such rules and regulations shall have the force and effect of law.

(b) Hear and decide appeals by employees and department heads from actions taken by the director under the provisions of this chapter.

(c) Submit to the governor and to the legislature a biennial report on the administration of this chapter not later than February 1st of every odd numbered year, together with recommendations relating thereto. Any such report which contains recommendations relating to the salary schedule shall also contain a computation of the cost to the Territory should such recommendations be enacted into law.

**Sec. 106. Initial appointments.** All initial appointments shall

be made at the first step of the appropriate salary range. In the event that the recruitment of an employee is not possible at such first step, the director may, after appropriate notice and advertising, recruit at the lowest step within the appropriate salary range at which an employee may be recruited. In the event that recruitment is not possible at any step in the appropriate salary range, and upon the certification of this fact and that the work required is of an essential public nature, the commission shall have the authority to authorize the recruitment of an employee at a salary which is fair and reasonable. Any employee so recruited at a step above the minimum of the appropriate salary range shall, upon a qualified recruit having been found willing to accept employment at the minimum step in the salary range, have the option to accept an appointment at such minimum step in the salary range, otherwise the appointment shall be made of the recruit willing to accept such appointment, provided that this shall not apply in the event that the employee is receiving compensation at a step which would then be appropriate had his original appointment been made at the minimum step. No person accepting an initial appointment at a step above the minimum rate shall be eligible for a step increase in compensation, until such time as his compensation would be so increased if he had been appointed at the minimum step.

**Sec. 107. Promotions, demotions, reallocations and reassignments; rules.** The commission shall adopt rules to provide for adjustments and changes in compensation in the event of promotions, temporary promotions and assignments, demotions and for the purpose of implementing the provisions of section 109. In the case of promotions or reallocations to higher grades the rules shall provide that the employee shall receive compensation at the lowest step of the higher grade which exceeds his existing compensation with no change in the employee's anniversary date. Such rules shall be adopted only after joint conference of all commissions and shall be uniformly applied and interpreted throughout the Territory and the several counties. Such rules shall give proper consideration to merit principles of employment and due recognition to length of service in the event of demotions resulting from physical conditions. No such rule shall be applied in any way in violation of sound merit principles.

**Sec. 108. Hazard pay.** Upon recommendation of a department head the director, with the approval of the commission, may grant differentials in pay for employees exposed temporarily to unusually hazardous working conditions; provided, however, that the hazard has not already been recognized as a factor in assigning classes to salary ranges. Such pay differentials may not exceed 25% of the minimum rate of the salary range, and shall terminate six months after the date of approval, unless terminated sooner. Such differentials may be renewed in the same manner as originally granted.

Differentials granted under this section shall become effective upon certification by the director of the bureau of the budget as to the availability of funds for this purpose.

**Sec. 109. Increments, service anniversary dates, longevity increases.** Upon certification of the appointing authority, any employee in the civil service shall, except as otherwise provided by Section 78(u), upon his rendering a year's satisfactory service, be entitled to an increase in compensation from that received during said year to that provided for by the next higher step in the salary range for the class to which his position has been assigned. For the purpose of this section, it shall not be necessary that the year's service shall have been in the same position or class. The date on which the employee would, except for the application of Section 78(u) have been entitled to such step increase, shall be known as his 'service anniversary date'.

Any employee in the civil service who has served satisfactorily for five years at the maximum step of the salary range for the class to which his position is assigned up to a maximum of fifteen years service shall receive longevity step increases. Each longevity step increase shall be equal to the difference between the salary at the maximum step of the employee's salary range and the next lower step of such range. No longevity step increases shall exceed three consecutive step increases nor be based on more than 15 years of continuous service at such maximum step.

Any employee who has served satisfactorily for five years at a step in a salary range higher than the maximum step of the salary range to which his appropriate class has been assigned, shall receive longevity increases as herein provided under the same terms and conditions as if he were receiving compensation at the maximum step for his appropriate grade, **provided that**, until such time as such increased compensation would exceed the compensation received by such employee without reference to such longevity increase, he shall be entitled to no increase in compensation.

**Sec. 110. Salary schedule.** Effective July 1, 1955, the annual rates of basic compensation with respect to classes of positions to which this chapter applies shall be in accordance with the following schedule:

Salary Range		S T E P S								
		A.	B.	C.	D.	E.	F.	G.	H.	I.
No.										
1	\$2040	\$2120	\$2200	\$2280	\$2360	\$2440	\$2520	\$2600	\$2680	
2	2205	2285	2365	2445	2525	2605	2685	2765		
3	2370	2450	2530	2610	2690	2770	2850	2930		
4	2510	2590	2670	2750	2830	2910	2990			
5	2650	2730	2810	2890	2970	3050	3130			
6	2760	2840	2920	3000	3080	3160	3240			
7	2875	2955	3035	3115	3195	3275	3355			
8	2985	3090	3190	3295	3395	3500	3600			
9	3100	3225	3350	3475	3600	3725	3850			
10	3275	3400	3525	3650	3775	3900	4025			
11	3450	3575	3700	3825	3950	4075	4200			
12	3635	3760	3885	4010	4135	4260	4385			
13	3825	3950	4075	4200	4325	4450	4575			



14	4010	4135	4260	4385	4510	4635	4760
15	4200	4325	4450	4575	4700	4825	4950
16	4400	4525	4650	4775	4900	5025	5150
17	4600	4725	4850	4975	5100	5225	5350
18	4800	4925	5050	5175	5300	5425	5550
19	5000	5125	5250	5375	5500	5625	5750
20	5200	5360	5525	5685	5850	6010	
21	5400	5600	5800	6000	6200	6400	
22	5900	6100	6300	6500	6700	6900	
23	6400	6600	6800	7000	7200	7400	
24	7000	7200	7400	7600	7800	8000	
25	7600	7800	8000	8200	8400	8600	
26	8200	8400	8600	8800	9000	9200	
27	8800	9000	9200	9400	9600	9800	
28	9400	9625	9850	10075	10300		
29	10000	10250	10500	10750	11000		
30	10600	10825	11050	11275	11500		
31	11200	11400	11600	11800	12000		

Whenever payment is made on the basis of a monthly, weekly, hourly or daily rate, such rate shall be computed in the following manner: (1) by dividing the annual rate by twelve in order to find the monthly rate; (2) by dividing the annual rate by fifty-two in order to find the weekly rate; (3) by dividing the annual rate by fifty-two and again dividing the result thereof by forty, in order to find the hourly rate; and (4) by multiplying the hourly rate by the number of daily hours of service required, in order to find the daily rate.

For the purpose of making the change-over from the existing general schedule (of 16 pay grades) to the new salary schedule (of 31 salary ranges) as set forth herein all classes heretofore assigned a grade within the general schedule shall be assigned to a salary range within the new salary schedule in accordance with the following table:

FROM:	Salary Range	TO:
GS-1		1
GS-2	" "	3
GS-3	" "	5
GS-4	" "	7
GS-5	" "	9
GS-6	" "	11
GS-7	" "	13
GS-8	" "	15
GS-9	" "	17
GS-10	" "	19
GS-11	" "	21
GS-12	" "	23
GS-13	" "	25
GS-14	" "	27
GS-15	" "	29
GS-16	" "	31

Every employee shall receive compensation at the same step of the new salary schedule as that at which he was receiving compensation under the general schedule, but this provision shall not affect the employees' service anniversary date. Anything to the contrary notwithstanding, any employee who was, on June 30, 1955, receiving compensation at a rate not provided for by any step in the general schedule shall continue to receive the same compensation after July 1, 1955, until such time as the class to which his position is assigned is reassigned to a salary range having a maximum step in excess of such compensation.

**Sec. 111.** The director may, from and after July 1, 1955, assign or reassign any of the classes in the position classification plan to a salary range in the salary schedule in accordance with the expressed purpose of section 104. Incumbents in positions in each class will, upon such assignment or reassignment, receive compensation at a step in the appropriate salary range as follows:

(1) If the incumbent was receiving compensation less than the minimum step of the salary range to which his appropriate class is assigned, his compensation shall be increased to that minimum step.

(2) If the incumbent was receiving compensation within the salary range prescribed for his class and at one of the steps fixed therein, no change shall be made in his existing compensation.

(3) If the incumbent was receiving compensation within the salary range prescribed for his class, but not at one of the steps fixed therein, his compensation shall be increased to the next higher step.

(4) If the incumbent was receiving compensation at a step within the salary schedule, but in excess of the salary range prescribed for his class, he shall continue to receive such compensation so long as he continues as an incumbent of such position, or, until such time as the class to which such position is assigned is reassigned to a salary range having a maximum step in excess of such compensation.

No service anniversary date shall be affected by the application of any provision of this section, nor shall the application of this section be in any way deemed an amendment of or change in any of the provisions of chapter 2.

**Sec. 112. Perquisites.** Each department shall determine, subject to the approval of the governor and under such directives as he may issue, the reasonable value of allowances rendered to employees in the form of quarters, heat, light, household equipment, maid service, laundry service, or other perquisites at the expense of the Territory but not for the convenience or benefit of the Territory and cause the reasonable value of such allowances to be deducted from the compensation of such employees; **provided**, however, that this provision shall not be deemed to change the status of any employee with respect to his compensation as the same existed on June 30, 1955. The department shall notify the employees concerned of its findings and transmit the same to the director and the appropriate fiscal officers. Such actions shall be subject to grievance procedures under section 78(v).

**Sec. 113. Coverage—city and county of Honolulu.** This chapter

shall apply to all positions included in the position classification plan for the city and county of Honolulu.

**Sec. 114. Provisions of previous sections applicable.** All of the provisions of this chapter not by their terms inapplicable shall apply with equal force to the city and county as the same apply to the Territory; the term Territory wherever it appears in said sections shall mean the city and county; the term governor shall mean the mayor of the city and county; the term legislature shall mean the board of supervisors of the city and county; and the term director of the bureau of the budget or fiscal officers shall mean the controller.

#### COUNTIES OF HAWAII, MAUI AND KAUAI

**Sec. 115. Coverage—counties of Hawaii, Maui and Kauai.** This chapter shall apply to all positions included in the position classification plan for each of the counties of Hawaii, Maui and Kauai, respectively.

**Sec. 116. Provisions of previous sections applicable.** All of the provisions of this chapter not by their terms inapplicable shall apply with equal force to each of the counties of Hawaii, Maui and Kauai as the same apply to the Territory; the term Territory wherever it appears in said sections shall mean each of the said counties; the term governor shall mean chairman of the board of supervisors of each of the said counties; the term legislature shall mean the board of supervisors of each of the said counties; and the term director of the bureau of the budget or fiscal officers shall mean the auditor.

**Sec. 117. Uniform classification and compensation for each county.** Notwithstanding any provision of chapters 2 or 3 to the contrary, the classification plan of the Territory shall be used by the several counties of Hawaii, Maui and Kauai where applicable. In the case of the counties of Hawaii, Maui and Kauai, if the classification plan of the Territory is not applicable to specific positions then the classification plan of the city and county of Honolulu shall be used where applicable. The applicability of the classification plan of the Territory, or, with respect to the counties of Hawaii, Maui and Kauai of the classification plan of the city and county of Honolulu, as the case may be, to specific positions in the several counties shall be determined by the personnel director of each county.

The personnel director of each of the counties of Hawaii, Maui and Kauai shall submit requests for the reclassification of positions either to the personnel director of the Territory, the personnel director of the city and county of Honolulu, or to a qualified and trained personnel technician employed or engaged by any county, for a recommendation as to the class in which such positions should be placed. Where it is necessary to establish a class other than one existing in the classification plan of the Territory or, of the city and county of Honolulu, as the case may be, to recognize differences in job content for any position or positions, class specifications for such class may be submitted either to the personnel director of the Territory, the personnel director of the city and county of Honolulu, or

to a qualified and trained personnel technician employed or engaged by any county, for a recommendation as to the salary range in which such class should be placed, and the range in which any class in the classification plan of any county is placed shall be as consistent as practicable with the salary range in which a comparable or related class in the classification plan of the Territory is placed.

Any action taken under this section shall be as fully subject to an appeal to the respective commissions of the counties of Hawaii, Maui and Kauai as if each determination had been made by the personnel director of such county."

**SECTION 3.** Section 550 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended by amending the first two paragraphs to read as follows:

**"Sec. 550. Vacations of public officers and employees; exceptions.** With the exception of school teachers and school principals employed in the public schools of the Territory; the instructional staff of the University of Hawaii; members of the fire departments of the Territory and the several counties; and initial probationary, temporary, provisional and contractual employees of the Territory and the several counties, all regular officers and employees of the Territory or of the several counties and all full time elected and appointive officers and employees of the Territory and the several counties shall be entitled to and granted a vacation with pay each calendar year calculated at the rate of one and three-quarters working days for each month of service. Vacation allowance shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year. A month of service shall be deemed to mean a calendar month in which the employee performs not less than twenty-one days of actual service. In the event the employee performs more than five but less than twenty-one days of actual service in any calendar month, the days of service shall be included in the computation of the employee's total vacation credit for the year on such basis as shall be provided for under the rules hereinafter referred to.

An annual vacation, or any part thereof unused, shall be automatically accumulated for succeeding years, except that the total recorded accumulation shall in no event exceed seventy-five working days; **provided**, however, that not more than eight days a year may be so accumulated by employees with less than fifteen years of service and not more than twelve days a year may be so accumulated by employees with fifteen or more years of service unless prior approval is secured by the employee from his department head for the accumulation of the full amount, said accumulation to be granted only for good cause shown. Whenever such accumulated vacation allowance, as recorded, shall exceed seventy-five working days, the employee shall automatically forfeit such excess. The vacation shall be granted at such time as the head of the department may designate, but an employee's preference shall be given consideration. Vacation shall be charged against accumulated vacation allowance at the rate of five working days per week; holidays shall not be charged as days

of vacation. Except in the case of members of the fire departments of the Territory and the several counties, officers or employees working without a regular weekly holiday shall be entitled to and granted four days' leave with pay for every twenty-eight days of service, which leave shall not be accumulated or considered as vacation.

Members of the fire departments of the Territory and the several counties who shall have complied with the provisions of section 359 shall be entitled to and granted a vacation with pay each calendar year of two and one-half calendar days for each month of service; **provided** that such annual vacation, or any part thereof unused, may be accumulated for succeeding years, except that the total accumulation shall in no event exceed ninety calendar days. Vacation allowance for members of the fire departments of the Territory and the several counties shall be recorded and administered and forfeited on the same basis as the allowance for other employees, except that ninety calendar days may be accumulated and recorded without forfeiture. The vacation shall be granted at such time as the head of the department may designate but an employee's preference shall be given consideration."

SECTION 4. The first paragraph of section 552 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

"Sec. 552. Sick leaves; exceptions; rules and regulations. (a) With the exception of school teachers and school principals employed in the public schools of the Territory and the instructional staff of the University of Hawaii, all officers and employees in the service of the Territory or of the several counties shall be entitled to and granted cumulative sick leave pay at the rate of one and three-quarters working days for each month of service.

Sick leave allowances shall be recorded and administered on a calendar year basis, the allowance accruing during each calendar year being credited to employees as of December 31 of each year. Every public officer or employee entitled to sick leave allowances under this section may accumulate for succeeding years the earned and unused portion of such sick leave; **provided**, that the total accumulation thereof shall not exceed fifty-four working days. A licensed physician's certificate shall be required only when absences are five or more consecutive days. Additional sick leave with pay, in excess of that which the officer or employee is entitled to, may be granted with the written approval of the governor, mayor or chairman of the board of supervisors, as the case may be; **provided**, that due consideration shall be given to the length of service of the particular employee requesting an excess of that which he is entitled to. As used herein the expression 'employees' shall include casual, irregular, or sporadic employees, commonly designated as per diem employees."

SECTION 5. The accumulated vacation allowances and accumulative sick leaves of every public officer and employee of the Territory and the several counties shall be calculated on the basis prescribed in sections 7, 8 and 9 of Act 278 of the Session Laws of Hawaii 1953 and accrued and recorded as of the first day of the month subsequent to the month in which

this Act takes effect; **provided**, however, that if the last bi-weekly period extends beyond the first of the month he shall be credited with the full allowance for that period. Thereafter, all vacation and sick leave shall be computed, accrued and recorded in the manner provided in sections 3 and 4 of this Act. Any officer or employee who on the first day of the month subsequent to the month in which this Act takes effect has accumulated vacation allowance or cumulative sick leave or both, in excess of that permitted under sections 7 and 8 of Act 278 of the Session Laws of Hawaii 1953, shall be entitled to such accumulated vacation, cumulated sick leave, or both, until January 1, 1956, but thereafter shall forfeit any excess over the maxima permitted under sections 3 and 4 of this Act.

**SECTION 6.** It is hereby declared that the practice of compensating employees in the civil service at per diem rates is contrary to the best interests of the government and of the employees concerned. All positions in the civil service of the Territory or of any county shall, therefore, hereafter be filled by persons employed on other than a per diem basis. In order that employees now in the civil service who are presently receiving compensation at per diem rates shall not be unduly prejudiced by the provisions hereof, the provisions of this section shall not be applicable to any position which is, on the effective date of this Act, filled by an employee receiving compensation at per diem rates, but every position shall, on or after January 1, 1960, be filled in the appropriate manner by his appointing authority as provided by this section. All positions which are vacant on the effective date of this Act, shall be filled in the manner as herein provided.

**SECTION 7. Retroactive pay adjustments.** The right of any employee to receive payment of any increments or retroactive pay adjustments under section 4 of Act 278, Session Laws of Hawaii 1953, shall not be affected by this Act.

**SECTION 8. Section 130 Revised Laws of Hawaii 1945** is hereby amended by deleting therefrom the line which reads:

"Director of personnel and classification . . . 10,080".

**SECTION 9.** There is hereby appropriated from the general revenues of the Territory not otherwise appropriated the sum of \$15,000 or so much thereof as may be necessary for the purpose of reimbursing the department of civil service of the Territory for services rendered to the several counties pursuant to the provisions of section 117 of this Act; and there is hereby appropriated from the general revenues of the Territory not otherwise appropriated the sum of \$10,000 or so much thereof as may be necessary for the purpose of reimbursing the department of civil service of the city and county of Honolulu for services rendered to the counties of Hawaii, Maui and Kauai pursuant to the provisions of section 117 of this Act. The sum herein appropriated shall be expended upon warrants drawn by the auditor of the Territory upon vouchers approved by the personnel director of the city and county of Honolulu, which vouchers shall be based only upon actual costs properly chargeable to the several counties to reflect the services performed.

**SECTION 10. Appropriations.** There is hereby appropriated from the general revenues of the Territory not otherwise appropriated for the biennium ending June 30, 1957, the sum of \$500,000 to cover any increased

compensation of the territorial officers and employees whose compensation is paid by the general fund of the Territory and the employer contribution to the employees' retirement system in respect to such increased compensation resulting from the passage of this Act. The appropriation made by this paragraph shall be allotted by the director of the bureau of the budget, with the approval of the governor to the several boards, commissions and officers of the Territory concerned.

SECTION 11. If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION 12. If any provision of this Act jeopardizes the receipt by the Territory or any county of any federal grant in aid or other federal allotment of money, such provision shall, insofar as said fund is jeopardized, be deemed to be inoperative.

SECTION 13. This Act shall take effect on July 1, 1955.

(Approved June 24, 1955.) H.B. 31, Act 274.

## ACT 275

An Act Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1957.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the following sums, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated for the biennial period beginning July 1, 1955 and ending June 30, 1957, out of the moneys in the treasury received from general revenues:

1. BOARD OF AGRICULTURE AND FORESTRY .....		1,720,831
Division of Administration .....		164,848
A. Personal Services .....	147,668	
B. Other Current Expenses .....	16,980	
C. Equipment .....	200	
Division of Animal Industry ....		497,750
A. Personal Services .....	405,390	
B. Other Current Expenses .....	58,607	
C. Equipment .....	753	
G. Rights & Obligations ....	3,000	
M. Motor Vehicles .....	30,000	
Division of Entomology & Marketing .....		401,736
A. Personal Services .....	351,290	
Includes the position of Plant Quarantine Inspector on the Island of Hawaii		
B. Other Current Expenses .....	48,327	
C. Equipment .....	419	
E. Construction of a Plant Quarantine House & Packing Shed, Kauai .....	1,700	
Division of Fish & Game .....		190,651
A. Personal Services .....	164,846	
B. Other Current Expenses .....	25,455	
C. Equipment .....	350	
Forestry Division .....		431,244
A. Personal Services .....	407,832	
B. Other Current Expenses .....	23,150	
C. Equipment .....	262	
Division of Territorial Parks ....		34,602
A. Personal Services .....	26,652	
B. Other Current Expenses .....	4,000	



M. Motor Vehicles, Kokee Kauai .....	3,950		
2. ATTORNEY GENERAL .....			360,175
Attorney General's Office .....		351,775	
A. Personal Services .....	328,847		
B. Other Current Expenses .....	18,928		
C. Equipment .....	4,000		
Office of the High Sheriff .....		8,400	
A. Personal Services .....	8,400		
3. AUDITING DEPARTMENT .....			452,407
Auditor's Office Proper .....		339,910	
A. Personal Services .....	303,915		
B. Other Current Expenses .....	32,150		
C. Equipment .....	1,095		
M. Motor Vehicles .....	2,750		
Electrical Accounting Machines .....		112,497	
A. Personal Services .....	71,747		
B. Other Current Expenses .....	40,064		
C. Equipment .....	686		
4. BOXING COMMISSION .....			22,477
A. Personal Services .....	19,675		
B. Other Current Expenses .....	2,802		
5. BUREAU OF THE BUDGET .....			529,349
Bureau of the Budget Proper .....		245,888	
A. Personal Services .....	222,571		
B. Other Current Expenses .....	21,102		
C. Equipment .....	2,215		
Supplies Revolving Fund .....		25,000	
B. Other Current Expenses .....	25,000		
Insurance Management .....		258,461	
B. Other Current Expenses .....	10,000		
F. Fixed Charges .....	248,461		
6. CIVIL DEFENSE AGENCY .....			143,930
Administration .....		79,131	
A. Personal Services .....	49,131		
B. Other Current Expenses .....	30,000		

Included in this appropriation  
is the salary of a Crime Statis-  
tics Administrator transferred  
from the Bureau of Crime Sta-  
tistics and Identification of the

Attorney General's Department.		
Health Service .....		61,563
A. Personal Services .....	8,275	
B. Other Current Expenses .....	53,088	
C. Equipment .....	200	
	<hr/>	
Matching Funds .....		3,236
B. Territorial and Federal Civilian Defense Match- ing Fund .....	39,136	
Less Federal funds to be matched by territorial funds pursuant to Section 4 of this Act .....	35,900	
	<hr/>	
Net appropriated .....	3,236	
7. DEPARTMENT OF CIVIL SERVICE .....		292,594
A. Personal Services .....	263,080	
Included in this appro- priation are the salaries of a Personnel Assistant and a Personnel Techni- cian transferred from the Office of the Director of the Department of Institu- tions.		
B. Other Current Expenses .....	28,260	
Provided, however, that if H. B. No. 31 [Act 274] becomes law an additional amount of \$8,400 is appro- priated to meet the per diem and other expenses of the additional commis- sioners provided in that bill.		
C. Equipment .....	1,254	
	<hr/>	
8. EMPLOYEES' RETIREMENT SYSTEM .....		6,319,444
A. Personal Services .....	195,000	
B. Other Current Expenses .....	21,000	
C. Equipment .....	3,000	
F. Fixed Charges .....	6,100,444	
	<hr/>	
9. EXECUTIVE DEPARTMENT .....		310,000
Governor's Office & Washing- ton Place .....	160,000	
Governor's Contingent Fund .....	160,000	
From which expenditures		

may be made only with the approval of the Governor for urgent needs for which no specific appropriation is made herein, except that no expenditures shall be made from this fund to increase or supplement any salary, pay or compensation, or to provide any salary, pay or compensation other than for personal services engaged on a temporary basis to meet emergencies; a detailed account of all of which expenditures shall be submitted to the next legislature.

10. HAWAII EMPLOYMENT RELATIONS BOARD.....		500
B. Other Current Expenses	500	
11. HAWAII HISTORICAL SITES COMMISSION .....		500
B. Other Current Expenses	500	
12. HAWAII SOIL CONSERVA- TION COMMITTEE .....		1,780
B. Other Current Expenses	1,780	
13. HAWAII VISITORS BU- REAU .....		750,000
B. Other Current Expenses	750,000	

This appropriation shall be subject to the following terms and conditions;

- (a) The Hawaii Visitors Bureau shall include on its executive board or committee five members appointed by the governor, each to serve for a term of one year and until his successor is appointed. One member shall be appointed to represent the Territory at large, the others to represent each of the counties of Hawaii, Maui and Kauai and the

city and county of Honolulu, upon nomination by the board of supervisors of the respective political subdivision in conjunction with the principal civic and commercial organizations thereof.

- (b) This appropriation shall become available from time to time, upon warrants issued by the auditor of the Territory, in amounts equal to the private contributions then received by the bureau in cash and deposited to its credit in a bank. The moneys thus made available, hereinafter referred to as "matching funds", shall be expendable only as provided in subparagraphs (a), (b), (c) and (d).
- (c) For every dollar contributed by a person or business organization doing business in the county of Hawaii, the bureau shall spend an equal amount of the matching funds for advertising and promotional work for the benefit of said county, and likewise in the case of contributions received from the counties of Maui and Kauai; **provided** that not more than \$60,000 of matching funds shall be so used for the county of Hawaii, not more than \$50,000 for the county of Maui and not more than \$40,000 for the county of Kauai.
- (d) Not less than \$75,000 or all matching funds re-

maining after allowance for the amounts to be spent under subparagraph (c) above shall be spent for promotional work in media other than paid advertisements and purchased radio and television time. This promotion may include (1) the production and distribution of motion pictures for television or other exhibition, (2) the production and distribution of posters, brochures, and other informational matter, or of photographs, news items, or articles for publication in suitable newspapers or periodicals, (3) the sponsoring of lecture or entertainment tours designed to publicize the advantages of the Territory as a tourist area, and (4) carrying on necessary greeting and entertaining functions. This list shall not be deemed exclusive.

- (e) Not less than \$25,000 of all matching funds remaining after allowance for the amounts to be spent under subparagraphs (c) and (d) above shall be spent for Aloha Week, such sum to be apportioned among the several counties, including the city and county of Honolulu, as follows:
 

City and County of Honolulu .....	20,000
County of Hawaii	2,000
County of Maui	2,000
County of Kauai	1,000
- (f) Except as to the amounts expendable in the manner provided in subpar-

agraphs (c), (d), and (e) above, all matching funds shall be expended in promoting the Territory of Hawaii as a tourist area through paid advertising, radio and television on the mainland United States and in the Dominion of Canada and, on a matching basis with contributions made by persons or organizations doing business therein, in any foreign country other than Canada. All advertisements in newspapers or periodicals shall give the address of the Hawaii Visitors Bureau and contain the notation that the reader may obtain further information by writing thereto. No contract for advertising shall be entered into with any agency or concern until interested agencies or concerns have been given a chance to make a presentation on how and when they would expend the funds available, and until such contract shall have been approved by the governor. The governor shall satisfy himself, prior to approval, that the contract is the most advantageous available for the promotion of the tourist industry. If, in the determination of the governor, tourist travel from the mainland United States to the Territory shall have been seriously curtailed as a result of war or otherwise, the executive board or committee of

the bureau, within thirty days after receipt of notice of such determination, shall abandon its program of mainland and foreign advertising, displays and broadcasts, except for such as it may be then firmly committed and shall submit to the governor a detailed plan of its proposed activities on a reduced basis for the period of such curtailment and, during such period, matching funds shall be expendable only for such purposes and in such amounts as the governor may approve, and any unneeded matching funds at the end of the biennium shall revert to the Territory and be paid back to the general fund.

A detailed accounting of all expenditures of matching funds and receipts and expenditures of private contributions shall be made to the governor as required, and to the legislature.

14. HAWAIIAN HOMES COMMISSION .....

471,168

A. Personal Services .....	271,008
B. Other Current Expenses .....	42,660
C. Equipment .....	5,000
M. Motor Vehicles .....	2,500
Anahola, Kauai, Development Project .....	150,000

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This item is not an appropriation of general revenues but constitutes the approval by the legislature of the Hawaiian Homes Commission budget for salaries and other administration expenses as provided by section 213, Hawaiian Homes Commission Act of 1920, as amended;

provided, that of this appropriation, \$2,100 for equipment and \$2,500 for motor vehicles shall be earmarked for the Kauai Branch, and \$7,000 shall be expended for the upkeep and maintenance of the Hoolehua Gymnasium on the Island of Molokai. This appropriation shall be financed by receipts from leases of available lands, as defined in section 204, estimated at \$350,000.

## 15. DEPARTMENT OF

## HEALTH

General Administration		365,021	6,146,555
A. Personal Services	308,243		
B. Other Current Expenses	51,503		
C. Equipment	3,275		
M. Motor Vehicles	2,000		
Division of Dental Health		31,284	
A. Personal Services	26,575		
B. Other Current Expenses	4,492		
C. Equipment	217		
Division of Hansen's Disease			300,334
Administration		143,092	
A. Personal Services	122,682		
B. Other Current Expenses	20,000		
Of this appropriation the actual amount needed but in no event \$700 more than the amount being currently expended for the traveling expenses of a music director shall be expended.			
C. Equipment	410		
Hale Mohalu		740,440	
A. Personal Services—			
Regular	283,095		
A. Personal Services—			
Patients	81,809		
B. Other Current Expenses	354,948		
C. Equipment	10,108		
F. Fixed Charges	10,480		
Kalaupapa Settlement		1,410,334	
A. Personal Services—			
Regular	434,609		
A. Personal Services—			
Patients	201,392		



B. Other Current Expenses	710,950	
C. Equipment .....	8,560	
E. Structures & Perm. Imp.	13,532	
F. Fixed Charges .....	41,291	
	<hr/>	
Kalaupapa Store .....		10,000
B. Other Current Expenses	10,000	
	<hr/>	
Total Requirements .....		2,303,866
Division of Hospitals and Medi- cal Care .....		1,955,272
A. Personal Services .....	189,414	
B. Other Current Expenses	23,008	
C. Equipment .....	200	
F. Fixed Charges .....	2,000,000	
	<hr/>	
Total Requirements .....	2,212,622	
Less Federal public assistance funds as may be made avail- able estimated at .....	257,350	
	<hr/>	
Net appropriated .....	1,955,272	
<p><b>Provided</b>, that in the event an amount less than \$257,350 is realized from federal funds, then the difference between \$257,350 and the amount of the federal funds provided is hereby appropriated; <b>provid- ed</b>, also that, in the event an amount greater than \$257,350 is provided, then this appro- priation shall be reduced to the extent that the actual re- alization shall exceed the esti- mated sum of \$257,350 for the biennium 1955-1957; and <b>pro- vided</b>, further, that all gov- ernment physicians shall file with the President of the Board of Health, records and statistics of services and medi- cal care rendered to the in- digent as compared to the medically indigent, a detailed account of all which shall be submitted to the next legis- lature.</p>		
Division of Local Health Serv- ices .....		975,326
A. Personal Services .....	876,478	

B. Other Current Expenses	78,389	
C. Equipment .....	2,459	
M. Motor Vehicles .....	18,000	
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Included in this appropriation is the salary of a janitor at \$5,500 at the Hanapepe Health Center.		
Division of Preventive Medicine		1,074,123
A. Personal Services .....	779,014	
B. Other Current Expenses	266,301	
C. Equipment .....	21,008	
M. Motor Vehicles .....	10,000	
<hr/>		
Total Requirements .....	1,076,323	
Less private contributions for tuberculosis, estimated at .....	2,200	
<hr/>		
	1,074,123	
Included in this appropriation is \$9,000 for the purchase of a tomographic equipment, and \$25,000 for polio vaccine for needy cases.		
Division of Sanitation .....		1,445,195
A. Personal Services .....	1,309,689	
B. Other Current Expenses	110,487	
C. Equipment .....	7,019	
M. Motor Vehicles .....	18,000	
<hr/>		
Included in this appropriation are the salaries of an inspector transferred from the Bureau of Plague and Typhus Control to the Bureau of Mosquito Control on Kauai, an inspector for the Bureau of Mosquito Control on Kauai, a sanitary engineer transferred from the Bureau of Housing to the Bureau of Sanitary Engineering and an industrial hygiene chemist transferred from Federal funds; <b>provided</b> , however, that no vacancies occurring during the biennium in the nonsupervising staff of the Bureau of Mosquito Control and the Bureau of Plague and Typhus shall be filled		

without the approval of the Bureau of the Budget.		
16. COMMISSION ON CHILDREN & YOUTH .....		12,797
A. Personal Services .....	11,197	
B. Other Current Expenses .....	1,600	
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17. DEPARTMENT OF INSTITUTIONS .....		8,653,868
Office of the Director .....		184,890
A. Personal Services .....	173,288	
B. Other Current Expenses .....	9,949	
C. Equipment .....	1,653	
<hr/>		
Territorial Hospital .....		3,400,518
A. Personal Services .....	2,210,163	
B. Other Current Expenses .....	1,100,000	
B1. Repairs to Buildings .....	49,000	
B3. Transportation of Patients .....	2,000	
C. Equipment .....	39,355	
<hr/>		
Waimano Home .....		2,049,534
A. Personal Services .....	1,277,571	
B. Other Current Expenses .....	736,552	
C. Equipment .....	35,411	
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Hawaii Prison System .....		1,911,300
A. Personal Services .....	1,081,021	
B. Other Current Expenses .....	771,079	
C. Equipment .....	18,200	
M. Motor Vehicle .....	5,000	
Prisoner's Compensation .....	30,000	
Transportation of Impecunious Persons .....	6,000	
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Division of Training Schools .....		844,933
A. Personal Services .....	598,866	
B. Other Current Expenses .....	244,709	
C. Equipment .....	1,358	
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Provided that no reduction in services shall be made at the Molokai Reforestation Camp.		
Paroles and Pardons .....		138,770
A. Personal Services .....	126,220	
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Included in this appropriation are the salaries of a Probation Parole Officer and a stenographer transferred from the Division of Parole & Home-		

placement.		
B. Other Current Expenses	12,000	
C. Equipment .....	550	
	<hr/>	
Division of Parole and Home-		
placement .....		123,923
A. Personal Services .....	106,075	
B. Other Current Expenses	12,548	
B1. Other Current Expenses		
Homeplacements .....	5,000	
C. Equipment .....	300	
	<hr/>	
18. INSTITUTIONS,		
QUASI-PUBLIC .....		7,803,145
Kula Sanatorium — Tubercu-		
losis Division .....		1,128,726
A. Personal Services .....	818,393	
B. Other Current Expenses	349,618	
C. Equipment .....	8,500	
M. Motor Vehicle .....	4,975	
F. Bond, Interest and Work-		
men's Compensation pay-		
ments .....	34,840	
E. Structures & Improve-		
ments .....	2,900	
	<hr/>	
	1,219,226	
Less such receipts as may be		
made available, estimated		
at .....	90,500	
	<hr/>	
Net appropriated .....	1,128,726	
Kula Sanatorium—General		
Hospital Division .....		22,681
A. Personal Services .....	56,231	
B. Other Current Expenses	15,450	
	<hr/>	
	71,681	
Less such receipts as may be		
made available, estimated		
at .....	49,000	
	<hr/>	
Net appropriated .....	22,681	
To supplement the estimated		
receipts to provide for the		
operation and maintenance		
of the hospital for the bi-		
ennium 1955-1957; pro-		
vided, however, that this		
appropriation shall be re-		
duced to the extent that		

the actual receipts shall exceed the estimated sum of \$139,500 for the biennium 1955-1957.

Leahi Hospital .....		3,729,251
A. Personal Services .....	2,720,141	
B. Other Current Expenses .....	1,041,203	
C. Equipment .....	20,000	
	<hr/>	
	3,781,344	

Less such receipts as may be made available, estimated at .....

52,093

Net appropriated ..... 3,729,251

Included in this sum is \$34,740 for the purpose of establishing a forty-hour, five-day week for all employees.

To supplement the estimated receipts to provide for the operation and maintenance of the hospital for the biennium 1955-1957; provided, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$52,093 for the biennium 1955-1957.

Molokai Community Hospital .....		95,360
A. Personal Services .....	192,685	
B. Other Current Expenses .....	93,474	
C. Equipment .....	2,000	
	<hr/>	
	288,159	

Less such receipts as may be made available, estimated at .....

192,799

Net appropriated ..... 95,360

To supplement the estimated receipts to provide for the operation and maintenance of the hospital for the biennium 1955-1957; provided, however, that this appropriation shall be reduced to the extent that

the actual receipts shall exceed the estimated sum of \$192,799 for the biennium 1955-1957.

Puumaile and Hilo Memorial Hospitals—Tuberculosis Div.		1,131,047
A. Personal Services .....	892,372	
B. Other Current Expenses .....	291,675	
C. Equipment .....	10,000	
	<hr/>	
	1,194,047	

Less such receipts as may be made available, estimated at .....	63,000
	<hr/>

Net appropriated .....	1,131,047
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To supplement the estimated receipts to provide for the operations and maintenance of the division for the biennium 1955-1957; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$63,000 for the biennium 1955-1957.

Samuel Mahelona Memorial Hospital .....		811,846
A. Personal Services .....	594,932	
B. Other Current Expenses .....	177,390	
C. Equipment .....	38,217	
E. Structures & Improvements .....	29,307	
	<hr/>	
	839,846	

Less such receipts as may be made available, estimated at .....	28,000
	<hr/>

Net appropriated .....	811,846
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To supplement the estimate receipts to provide for the operation and maintenance of the hospital for the biennium 1955-1957; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of

\$28,000 for the biennium 1955-1957; **provided**, further, that of this appropriation \$4,025 shall be expended for the Centralized Sound System.

Lunalilo Home .....		80,000
D. Fixed Charges .....	80,000	
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Kapiolani Maternity & Gynecological Hospital .....		29,606
<b>Provided</b> that if H. B. 1179 [Act 165] is not enacted into law, this appropriation shall be reduced by \$15,000.		
Kauikeolani Children's Hospital .....		60,856
Kuakini Hospital .....		34,540
St. Francis Hospital .....		81,690
Queen's Hospital .....		136,515
Wahiawa General Hospital .....		50,988
C. N. Wilcox Memorial Hospital .....		43,312
Southshore Hospital .....		21,382
Kahuku Hospital .....		16,448
Waimea Hospital .....		16,448
Puumaile & Hilo Memorial Hospitals—General .....		122,808
Honokaa Hospital .....		20,834
Kohala Hospital .....		24,672
Kona Hospital .....		23,027
Central Maui Memorial Hospital .....		67,983
Hana Hospital .....		12,610
Maunalani Hospital & Convalescent Home .....		21,900
Pahala General Hospital .....		18,615

The above appropriations for private and county hospitals shall be paid in quarterly installments at the rate of \$.75 per ward bed per day, whether occupied or not, but not exceeding said appropriations for the biennium; **provided**, however, that said installments shall not be paid unless and until (1) the Auditor finds that the recipient has installed and is maintaining a uniform accounting system

in conformity with accepted standards of the American Hospital Association; (2) The recipient has filed with the Auditor a statement of receipts and disbursements, in accordance with the system prescribed for the quarter for which the payment is made; (3) the President of the Board of Health defines, determines, certifies, and approves the term "ward bed" and the number thereof; and (4) all licensed physicians admitted to practice medicine in the Territory are allowed the use of the facilities of the recipient hospitals without discrimination except for misconduct or abuse of such facilities; provided further, that should the Waimea hospital expand beyond its present number of ward beds, or should such hospital be replaced by the Kauai Veteran's Memorial Hospital having a larger number of ward beds, the appropriation provided herein and any further payments necessary may be used to cover the total number of ward beds at either institution notwithstanding the limitations set forth herein.

19. INTERNATIONAL COOPERATION CENTER .....		2,500
B. Other Current Expenses .....	2,500	
20. JUDICIARY DEPARTMENT .....		2,186,310
Supreme Court .....		136,955
Supreme Court Proper .....	77,294	
A. Personal Services .....	68,372	
B. Other Current Expenses .....	4,922	
C. Equipment .....	4,000	
Supreme Court Library .....		36,476
A. Personal Services .....	20,783	



B. Other Current Expenses	654	
C. Equipment .....	15,039	
	<hr/>	
Publication of Hawaii Reports		22,185
B. Other Current Expenses	22,185	
	<hr/>	
Procedural Rules Committee ....		1,000
B. Other Current Expenses	1,000	
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District Court of Kalawao .....		4,560
A. Personal Services .....	4,560	
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Land Court .....		36,582
A. Personal Services .....	35,461	
B. Other Current Expenses	500	
C. Equipment .....	621	
	<hr/>	
First Circuit Court .....		727,507
First Circuit Court Proper .....	607,697	
	<hr/>	
A. Personal Services .....	487,697	
Included in this appropriation are the salaries of a Crime Statistics Officer and two clerks at \$10,700, \$7,700, and \$6,310 respectively, transferred from the Bureau of Crime Statistics & Identification of the Attorney General's Department.		
B. Other Current Expenses	110,000	
C. Equipment .....	10,000	
	<hr/>	
Adult Probation .....		119,810
A. Personal Services .....	108,015	
B. Other Current Expenses	11,025	
C. Equipment .....	770	
	<hr/>	
Juvenile Court .....		657,629
Juvenile Court Proper .....	493,081	
	<hr/>	
A. Personal Services .....	435,933	
B. Other Current Expenses	55,148	
C. Equipment .....	2,000	
	<hr/>	
Detention Home .....		164,548
A. Personal Services .....	132,875	
B. Other Current Expenses	30,431	
C. Equipment .....	1,242	
	<hr/>	

Second Circuit Court .....		212,147
A. Personal Services .....	161,972	
B. Other Current Expenses .....	47,675	
C. Equipment .....	2,500	
	<hr/>	
Third Circuit Court .....		264,262
A. Personal Services .....	180,127	
B. Other Current Expenses .....	78,365	
C. Equipment .....	5,770	
	<hr/>	
Fifth Circuit Court .....		146,668
A. Personal Services .....	116,954	
B. Other Current Expenses .....	27,014	
C. Equipment .....	2,700	
	<hr/>	
21. DEPARTMENT OF LABOR AND INDUSTRIAL RELA- TIONS .....		545,269
Department of Labor and In- dustrial Relations Proper .....		354,269
A. Personal Services .....	339,478	
B. Other Current Expenses .....	23,291	
	<hr/>	
	362,769	
Less federal funds as may be made available, estimated at .....	8,500	
	<hr/>	
	354,269	
 <b>Provided that in the event an amount less than \$8,500 is made available from federal sources, then the difference between \$8,500 and the amount of federal funds is hereby appropriated; pro- vided further that in the event an amount greater than \$8,500 is provided, then this appropriation shall be re- duced to the extent that the actual realization shall ex- ceed the estimated sum of \$8,500 for the biennium 1955- 1957.</b>		
Workmen's Compensation .....		191,000
A. Personal Services .....	170,475	
B. Other Current Expenses .....	18,500	
C. Equipment .....	2,025	
	<hr/>	
22. LIBRARIES .....		1,266,895

Library of Hawaii .....		785,563
A. Personal Services .....	607,563	
B. Other Current Expenses .....	98,000	
C. Equipment .....	80,000	
	<hr/>	
Hawaii County Library .....		163,123
A. Personal Services .....	127,975	
B. Other Current Expenses .....	13,614	
C. Equipment .....	21,534	
	<hr/>	
Maui County Free Library .....		163,852
A. Personal Services .....	122,499	
B. Other Current Expenses .....	11,353	
C. Equipment .....	30,000	
	<hr/>	
Kauai Public Library Association, Ltd. ....		154,357
A. Personal Services .....	131,357	
B. Other Current Expenses .....	10,000	
C. Equipment .....	13,000	
	<hr/>	
23. MILITARY DEPARTMENT .....		765,984
A. Personal Services .....	700,814	
B. Other Current Expenses .....	219,000	
C. Equipment .....	8,170	
	<hr/>	
	927,984	
Less federal service contract funds to be matched by territorial funds pursuant to section 4 of this Act. ....	162,000	
	<hr/>	
Net appropriated .....	765,984	
In the event that the Hawaii National Guard and the Hawaii Air National Guard shall be called or ordered into the service of the United States, the foregoing appropriation or any part thereof remaining unexpended shall be available for expenditure for the Hawaii Territorial Guard. In the event that only a portion of the Hawaii National Guard or the Hawaii Air National Guard should be called or ordered into the service of the United States, the adjutant general		

with the approval of the director of the bureau of the budget shall allocate the foregoing appropriation or any part thereof remaining unexpended between the Hawaii Territorial Guard and the Hawaii National Guard.

24. PUBLIC ARCHIVES .....		101,622
A. Personal Services .....	93,604	
Included in this appropriation is the salary of a custodian for Iolani Palace at \$6,400.		
B. Other Current Expenses .....	7,518	
C. Equipment .....	500	
	-----	
25. DEPARTMENT OF PUBLIC INSTRUCTION .....		42,718,200
Central Office .....		1,746,612
A. Personal Services .....	1,128,462	
B. Other Current Expenses .....	596,523	
C. Equipment .....	21,627	
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District Offices .....		1,016,208
A. Personal Services .....	967,737	
B. Other Current Expenses .....	34,215	
C. Equipment .....	14,256	
	-----	
Schools .....		42,637,249
A. Personal Services .....	40,603,013	
B. Other Current Expenses .....	875,119	
C. Equipment .....	1,159,117	
	-----	
Includes \$95,000 for vocational training in hotel and restaurant occupations; \$100,000 for mentally retarded children's program; \$82,000 for 10 additional remedial teachers; \$26,640 for vocational agriculture off-ratio positions; \$50,000 for additional compensation for athletic coaches, provided that such additional compensation shall be paid only to coaches of football, baseball, basketball, track and swimming.		
Total Requirements .....		45,400,069

Less estimated Special Funds ----	207,596
Net Appropriated -----	45,192,473
Less federal vocational rehabilitation funds to be matched by territorial funds pursuant to Section 4 of this Act -----	345,120
Less federal vocational educational funds to be matched by territorial funds pursuant to Section 4 of this Act -----	377,401
Sub-total -----	44,469,952
Less such federal funds under PL 874 as may be made available -----	1,751,752
Net appropriated -----	42,718,200

**Provided** that in the event an amount less than \$1,751,752 is provided by Congress under PL 874, then the difference between \$1,751,752 and the amount of the Federal funds provided is hereby appropriated; **provided** further that in the event an amount greater than \$1,751,752 is provided, then this appropriation shall be reduced to the extent that the actual realization shall exceed the estimated sum of \$1,751,752 for the biennium 1955-1957.

The appropriation for this department is based upon a school by school pupil-teacher ratio of 32 pupils per teacher. Further, the overhead ratios are based on a pupil-staff ratio of 195 to 1 in the elementary schools and in the secondary schools. **Provided**, however, that there shall be no less than three overhead positions in any high school.

Included in this appropriation are the salaries of two stenographers transferred from the Office of the Fire Marshal, Treasury Department and the

Commission on Children & Youth respectively.		
26.	DEPARTMENT OF PUBLIC LANDS .....	812,005
	Office of the Commissioner .....	259,261
	A. Personal Services .....	220,761
	B. Other Current Expenses .....	37,500
	C. Equipment .....	1,000
	Bureau of Conveyances .....	369,808
	A. Personal Services .....	318,409
	B. Other Current Expenses .....	41,912
	C. Equipment .....	9,487
	Division of Hydrography .....	182,936
	A. Personal Services .....	49,384
	B. Other Current Expenses .....	16,650
	G. Rights & Obligations .....	116,902
27.	DEPARTMENT OF PUBLIC WELFARE .....	8,601,105
	Administration .....	1,247,689
	A. Personal Services .....	1,148,469
	B. Other Current Expenses .....	97,000
	C. Equipment .....	2,220
	Assistance Program .....	7,353,416
	F. General Assistance .....	2,413,278
	F. Aid to the Disabled .....	658,155
	F. Old Age Assistance .....	581,857
	F. Aid to Dependent Children .....	2,752,157
	F. Aid to the Blind .....	46,313
	F. Child Welfare Services .....	901,656
28.	DEPARTMENT OF PUBLIC WORKS .....	1,412,683
	Office of the Superintendent ....	106,890
	A. Personal Services .....	102,340
	B. Other Current Expenses .....	4,550
	Maintenance, Repairs, Additions and Improvements to Building, Grounds and Government Property .....	1,227,313
	A. Personal Services .....	637,709
	Included in this appropriation is the salary of a general laborer transferred from the General Administration Division of the Department of Health.	

	B. Other Current Expenses	586,104	
	C. Equipment .....	3,500	
		<hr/>	
	Maintenance of Government		
	Cemeteries .....		3,480
	A. Personal Services .....	3,480	
		<hr/>	
	Maintenance of Saddle Road,		
	Hawaii .....		75,000
29.	SECRETARY OF HAWAII .....		189,385
	Secretary's Office .....		41,042
	A. Personal Services .....	38,298	
	B. Other Current Expenses .....	2,744	
		<hr/>	
	Expenses of Election .....		98,743
	A. Personal Services .....	57,560	
	B. Other Current Expenses .....	41,183	
		<hr/>	
	Publication, Session Laws of		
	Hawaii .....		15,000
	Hawaiian Birth Registration .....		34,600
	A. Personal Services .....	34,600	
		<hr/>	
30.	BUREAU OF SIGHT CON-		
	SERVATION AND WORK		
	WITH THE BLIND .....		294,074
	A. Personal Services .....	245,344	
	B. Other Current Expenses .....	17,000	
	C. Equipment .....	650	
	F. Fixed Charges .....	86,334	
		<hr/>	
		349,328	
	Less federal vocational rehabili-		
	tation funds to be matched		
	by territorial funds pursuant		
	to Section 4 of this Act .....	55,254	
		<hr/>	
	Net appropriated .....	294,074	
	Provided that \$17,200 for the		
	salary of the Sight Conserva-		
	tion and Blind work executive		
	shall be deducted from this		
	appropriation in the event		
	H. B. 1288 is enacted.		
31.	HAWAII STATEHOOD COM-		
	MISSION .....		85,000
	Washington Office .....		60,000
	A. Personal Services .....	27,200	
	B. Other Current Expenses .....	32,440	
	C. Equipment .....	360	
		<hr/>	

Honolulu Office .....		25,000
A. Personal Services .....	19,692	
B. Other Current Expenses .....	5,208	
C. Equipment .....	100	
	<hr/>	

Provided that the above appropriation shall be expended under the control of the governor; **provided**, further, that the head of the Washington office shall be a member of a political party different from that of the Delegate then serving in Congress.

32. COMMISSION ON SUBVERSIVE ACTIVITIES .....		20,000
33. SURVEY DEPARTMENT .....		316,634
A. Personal Services .....	299,507	
B. Other Current Expenses .....	16,750	
C. Equipment .....	377	
	<hr/>	
34. DEPARTMENT OF THE TAX COMMISSIONER .....		2,547,610
First Taxation Division (Oahu) .....		1,723,742
A. Personal Services .....	1,522,883	
B. Other Current Expenses .....	172,770	
C. Equipment .....	23,574	
M. Motor Vehicle .....	4,515	
	<hr/>	
Second Taxation Division (Maui) .....		220,897
A. Personal Services .....	207,270	
B. Other Current Expenses .....	12,500	
C. Equipment .....	1,127	
	<hr/>	
Third Taxation Division (Hawaii) .....		355,572
A. Personal Services .....	317,887	
B. Other Current Expenses .....	27,980	
C. Equipment .....	4,805	
M. Motor Vehicle .....	4,900	
	<hr/>	
Fourth Taxation Division (Kauai) .....		147,399
A. Personal Services .....	136,368	
B. Other Current Expenses .....	8,535	
C. Equipment .....	2,496	
	<hr/>	

Provided that this appropriation shall be increased by an additional amount of \$200,000



in the event S. B. 818 is enacted.			
Land Appraisal Program for hiring of qualified appraisers on a contract basis without regard to civil service requirements.		100,000	
35.	TREASURY DEPARTMENT		8,678,353
	Treasurer's Office .....	135,477	
	A. Personal Services .....	125,187	
	B. Other Current Expenses .....	9,790	
	C. Equipment .....	500	
	Deputy Bank Examiner .....	153,493	
	A. Personal Services .....	139,493	
	B. Other Current Expenses .....	13,950	
	C. Equipment .....	50	
	Fire Marshal .....	39,582	
	A. Personal Services .....	31,561	
	B. Other Current Expenses .....	7,300	
	C. Equipment .....	721	
	Insurance Bureau .....	120,503	
	A. Personal Services .....	110,068	
	B. Other Current Expenses .....	10,435	
	Public Debt Service .....	40,797	
	B. Other Current Expenses .....	40,797	
	Bonded Debt .....	8,188,501	
	Interest on Bonded Debt .....	1,949,501	
	Redemption of Serial Bonds .....	6,239,000	
36.	UNIVERSITY OF HAWAII		6,662,383
	Administration & General .....	670,922	
	A. Personal Services .....	698,193	
	B. Other Current Expenses .....	222,037	
	C. Equipment .....	3,851	
		924,081	
	Less estimated special funds .....	253,159	
	Net appropriated .....	670,922	
	Resident Instruction .....	2,474,247	
	A. Personal Services .....	3,907,877	
	B. Other Current Expenses .....	308,471	
	C. Equipment .....	60,000	
	F. Fixed Charges .....	36,480	
		4,312,828	

Less estimated special funds ....	1,838,581	
Net appropriated .....	2,474,247	
Hilo Branch .....		128,052
A. Personal Services .....	124,648	
Included in this appropriation are the salaries of two positions transferred from the Bureau of Plague & Typhus Control of the Department of Health.		
B. Other Current Expenses .....	21,200	
C. Equipment .....	35,564	
	181,412	
Less estimated special funds .....	53,360	
Net appropriated .....	128,052	
University Extension Division .....		47,113
A. Personal Services .....	334,819	
B. Other Current Expenses .....	17,425	
C. Equipment .....	1,100	
	353,344	
Less estimated special funds ....	306,231	
	47,113	
Agricultural Experiment Station .....		993,317
A. Personal Services .....	1,176,659	
B. Other Current Expenses .....	260,267	
C. Equipment .....	11,196	
Kauai Experiment Station .....	30,000	
Kamuela Experiment Station .....	30,000	
	1,508,122	
Less estimated special funds ....	514,805	
Net appropriated .....	993,317	
Agricultural Extension Service .....		832,066
A. Personal Service .....	1,073,041	
B. Other Current Expenses .....	179,989	
C. Equipment .....	1,000	
	1,254,030	
Less estimated special funds ....	421,964	
Net appropriated .....	832,066	
Miscellaneous Research .....		308,773
A. Personal Services .....	265,433	
B. Other Current Expenses .....	50,800	

C. Equipment .....	7,000	
Land Classification Study .....	80,000	
	<hr/>	
	403,233	
Less estimated special funds ....	94,460	
	<hr/>	
Net appropriated .....	308,773	
The amount appropriated above for a land classification study shall be used for the purpose of completing detailed information on the physical potential of the soils of the Territory, climate and rainfall patterns, water resources and water rights, current ownership patterns, present use, and most suitable use of the various lands.		
Legislative Reference Bureau ....		91,049
A. Personal Services .....	81,369	
B. Other Current Expenses .....	6,900	
C. Equipment .....	2,780	
	<hr/>	
Library .....		258,042
A. Personal Services .....	267,689	
B. Other Current Expenses .....	7,309	
C. Equipment .....	139,641	
	<hr/>	
	414,639	
Less estimated special funds ....	156,597	
	<hr/>	
Net appropriated .....	258,042	
Operation & Maintenance of Plant .....		646,005
A. Personal Services .....	481,468	
B. Other Current Expenses .....	337,160	
C. Equipment .....	12,000	
	<hr/>	
	830,628	
Less estimated special funds ....	184,623	
	<hr/>	
Net appropriated .....	646,005	
Aquarium .....		36,540
A. Personal Services .....	76,140	
B. Other Current Expenses .....	35,000	
C. Equipment .....	400	
	<hr/>	
	111,540	
Less estimated special funds ....	75,000	
	<hr/>	

Net appropriated .....	36,540	
Psychological Clinic .....		122,657
A. Personal Services .....	113,357	
B. Other Current Expenses .....	8,500	
C. Equipment .....	800	
	-----	
Plant Additions .....		53,600
E. Structures & Permanent		
Improvements .....	8,600	
Access road for Hilo Branch .....	45,000	

The appropriation for this department is based upon a reduction of the tuition fee from \$200 per school year to \$170 per school year.

The amount of the appropriation necessary to match allotments made by the federal government for extension work and agricultural experiment station operations shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments. **Provided,** however, that disbursements matching federal allotments may be regularly audited by the federal auditor and shall be subject to the same limitations as respects the character of expenditures of the federal funds which it offsets.

Any other law to the contrary notwithstanding, no portion of the funds appropriated by this Act for the University of Hawaii, or collected or received by the University from its students or from the United States, or of any other funds under the control of its board of regents, shall be expendable for the reimbursement of the Territory for the amount payable by the Territory to cover the liability of the Territory to the various funds of the employees' retirement system on account

of the employees of the University, nor shall any law providing for such reimbursement be deemed applicable to the University, **provided** that this exemption shall not apply to Auxiliary Enterprise funds and other funds which have not been netted in deriving the net appropriation of the University.

37. COUNCIL OF VETERANS AFFAIRS .....

87,245

A. Personal Services ..... 74,245

**Provided**, that this appropriation shall not be used to pay the salary of a vocational counsellor.

B. Other Current Expenses ..... 12,500

C. Equipment ..... 500

TOTAL OF OPERATING BUDGET .....

111,284,777

Less estimated savings pursuant to section 5 of this Act ....

1,500,000

TOTAL NET OPERATING BUDGET .....

109,784,777

**SECTION 2.** Within sixty days after this act takes effect, the head of each department, with the approval of the director of the bureau of the budget, shall make the initial allocation of funds herein appropriated for such department for each of the two fiscal years of the biennium. In the event of a disagreement between the department head and the director, the governor shall make the initial allocation. Changes and transfers in allocation of appropriations as to programs, organizational units and characters of expenditures within each fiscal year may be made by the head of the department with the approval of the director of the bureau of the budget. The head of the department, may with the approval of the director of the bureau of the budget transfer funds allocated to the second fiscal year to the first fiscal year to meet emergencies. Any unexpended balance of funds allocated for expenditure during the first fiscal year of the biennium shall not be expended but shall lapse into the general fund of the Territory, **provided**, however, that so much as is necessary to increase the governor's Contingent Fund to \$150,000 at the beginning of the second fiscal year shall be transferred into the said fund and shall then be expendable for any of the purposes of said fund.

For the purposes of this Act, the term "department" shall include any department, board, bureau, commission, agency, office or institution for which an appropriation is made herein.

**SECTION 3.** The governor is authorized to reduce expenditures under

appropriations to the extent the revenues to be realized during the biennium 1955-1957 is less than the total expenditures authorized by the legislature.

SECTION 4. The legislature hereby declares that, except as hereinafter stated, moneys appropriated for expenditures for which federal matching funds heretofore have been available are to be expended only if such federal matching funds continue to be available, and in the event of any decrease in the anticipated federal matching funds (whether as a result of a change in the federal law, regulations, administrative determinations, fiscal policies, or otherwise) the corresponding territorial appropriation shall be decreased in such amount as, but for such federal decrease, would have been used as territorial matching funds.

Nothing in this section shall be deemed to apply in the event the governor, upon the recommendation of the director of the bureau of the budget, shall waive the provisions of this Section.

SECTION 5. In order to effectuate the savings required by Section 1 of this Act in the estimated sum of \$1,500,000, the director of the bureau of the budget with the approval of the governor, shall establish and administer average employment ceilings for each department for the biennium 1955-1957 to the extent necessary to be achieved by non-filling of vacant positions, **provided**, however, that this section shall not apply to the bureau of the budget and classroom teaching positions of the department of public instruction and the University of Hawaii.

Notwithstanding the provisions of this section with respect to effectuating the saving of the estimated sum of \$1,500,000, and in order that essential public services may be performed, the filling of any vacant position by transfer or promotion may, with the approval of the director of the bureau of the budget and of the governor be accomplished, but the position left vacant by any such transfer or promotion may be filled only as provided for herein; **provided**, however, that the provisions of chapter 2 and 3, Revised Laws of Hawaii 1945, as amended, shall be first complied with.

SECTION 6. This Act shall take effect from and after July 1, 1955.

(Approved June 28, 1955.) H.B. 722, Act 275.

### ACT 276

An Act to Amend Section 1759 of the Revised Laws of Hawaii 1945, as Amended, Relating to the Salaries of Teachers and Principals in the Department of Public Instruction and to the Salaries of the Faculty Members of the University of Hawaii, and Making an Appropriation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1759 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended in the following respects:

(a) By amending subsection 1 thereof to read as follows:

Years of Experience	Class I	Class II	Class III
	Non-Collegiate Certificate	Collegiate Certificate	Professional Certificate
	Monthly Salary	Monthly Salary	Monthly Salary
1	\$245	\$250	\$275

2	259	265	290
3	273	280	305
4	287	295	320
5	301	310	335
6	315	325	350
7	329	340	365
8	343	355	380
9	357	370	395
10	371	385	410
11	385	400	425
12	399	415	440"

(b) By amending subsection 2 thereof to read as follows:

"2. Principals shall be paid what they would earn as teachers, plus monthly salary differentials which shall be determined by applying the following appropriate percentages to the maximum rate in Class III of the salary schedule:

Number of teachers under principals' supervision (figures being inclusive)	Differential (Per cent applied to maximum rate in Class III)
0-5	25 per cent
6-10	30
11-15	36
16-25	40
26-35	42
36-45	45
46-55	47
56-65	50
66-75	52
76-85	55
86-95	57
96-105	60
106-115	62
116-and over	64"

SECTION 2. Notwithstanding any provision of any law to the contrary, all teachers and principals in the department of public instruction shall be transferred on September 1, 1955, to the teachers' schedule prescribed in section 1 of this Act, hereinafter referred to as the "new schedule". Such transfer shall be on the basis of compensation and not of years of experience. A teacher shall be placed in the new schedule in the salary grade of his appropriate class equal to the compensation to which he would have been entitled on September 1, 1955, under the existing schedule (after the annual increment had been added). If the appropriate class does not contain a salary grade equal to the compensation to which he would have been entitled on September 1, 1955, such teacher shall be placed in the next highest salary grade of his appropriate class in the new schedule. A teacher who is receiving the maximum salary in his class as of August 31, 1955, shall be transferred on September 1, 1955, to the next highest salary grade of his appropriate class, in the new schedule. **Provided**, however, that any teacher transferring from the old schedule to the schedule provided for by this Act shall receive a salary increase of not less than \$5.00 per month.

Any teacher not receiving the maximum salary prescribed in the new

schedule shall thereafter have his salary increased by one increment on the next succeeding date set by the department of public instruction for increases in salary and so on up to but not exceeding the maximum rate for his class.

SECTION 3. The rates of compensation for personnel of the University of Hawaii, currently established by the board of regents of the University pursuant to sections 1948 and 1950 of the Revised Laws of Hawaii 1945, as amended, shall be increased by three per cent.

SECTION 4. Section 106, Revised Laws of Hawaii 1945 as amended, is hereby further amended to read as follows:

"Sec. 106. Salary schedule. Effective July 1, 1955, the annual rates of basic compensation with respect to classes of positions to which this chapter applies shall be in accordance with the following schedule:

Salary Range	No.	A	B	C	D	E	F	G	H	I
1	\$ 2307	\$ 2387	\$ 2467	\$ 2547	\$ 2627	\$ 2707	\$ 2787	\$ 2867	\$ 2947	
2	2449	2529	2609	2689	2769	2849	2929	3009		
3	2591	2671	2751	2831	2911	2991	3071	3151		
4	2708	2788	2868	2948	3028	3108	3188			
5	2824	2904	2984	3064	3144	3224	3304			
6	2937	3017	3097	3177	3257	3337	3417			
7	3049	3129	3209	3289	3369	3449	3529			
8	3165	3245	3325	3405	3485	3565	3645			
9	3280	3405	3530	3655	3780	3905	4030			
10	3465	3590	3715	3840	3965	4090	4215			
11	3650	3775	3900	4025	4150	4275	4400			
12	3848	3973	4098	4223	4348	4473	4598			
13	4046	4171	4296	4421	4546	4671	4796			
14	4245	4370	4495	4620	4745	4870	4995			
15	4444	4569	4694	4819	4944	5069	5194			
16	4656	4781	4906	5031	5156	5281	5406			
17	4867	4992	5117	5242	5367	5492	5617			
18	5079	5204	5329	5454	5579	5704	5829			
19	5290	5415	5540	5665	5790	5915	6040			
20	5502	5627	5752	5877	6002	6127				
21	5714	5914	6114	6314	6514	6714				
22	6243	6443	6643	6843	7043	7243				
23	6772	6972	7172	7372	7572	7772				
24	7407	7607	7807	8007	8207	8407				
25	8041	8241	8441	8641	8841	9041				
26	8653	8853	9053	9253	9453	9653				
27	9265	9465	9665	9865	10065	10265				
28	9865	10065	10265	10465	10665	10865				
29	10465	10715	10965	11215	11465					
30	11065	11315	11565	11815	12065					
31	11665	11865	12065	12265	12465					

Whenever payment is made on the basis of a monthly, weekly, hourly or daily rate, such rate shall be computed in the following



manner: (1) by dividing the annual rate by twelve in order to find the monthly rate; (2) by dividing the annual rate of fifty-two in order to find the weekly rate; (3) by dividing the annual rate by fifty-two and again dividing the result thereof by forty, in order to find the hourly rate; and (4) by multiplying the hourly rate by the number of daily hours of service required, in order to find the daily rate.

For the purpose of making the changeover from the existing general schedule (of 16 pay grades) to the new salary schedule (of 31 salary ranges) as set forth herein all classes heretofore assigned a grade within the general schedule shall be assigned to a salary range within the new salary schedule in accordance with the following table:

FROM	TO:	
	Salary	Range
GS-1	"	1
GS-2	"	3
GS-3	"	5
GS-4	"	7
GS-5	"	9
GS-6	"	11
GS-7	"	13
GS-8	"	15
GS-9	"	17
GS-10	"	19
GS-11	"	21
GS-12	"	23
GS-13	"	25
GS-14	"	27
GS-15	"	29
GS-16	"	31

Every employee shall receive compensation at the same step of the new salary schedule as that at which he was receiving compensation under the general schedule. Anything to the contrary notwithstanding, any employee who was, on June 30, 1955, receiving compensation at a rate not provided for by any step in the general schedule shall continue to receive the same compensation after July 1, 1955, until such time as the class to which his position is assigned is reassigned to a salary range having a maximum step in excess of such compensation.

The service anniversary date for all employees who are in service on July 1, 1955 shall be July 1, 1955, **provided** however, that no increment shall be earned under this section prior to July 1, 1956."

**SECTION 5.** There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated and in addition to any other appropriation to the department of public instruction, the sum of \$1,265,000.00, or so much thereof as may be necessary to carry out the purpose of section 1 of this Act. The department shall expend this sum in the same manner as other appropriations made to the department.

There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated and in addition to any other appropriation to the University of Hawaii, the sum of \$172,500.00, or so much thereof as may be necessary to carry out the purpose of section 2 of this Act. The

regents of the University shall expend this sum in the same manner as other appropriations made to the University.

There is hereby appropriated from the general revenues of the Territory not otherwise appropriated, the sum of \$3,100,000.00 for the following purposes: (a) to pay for the increase of salaries, occasioned by section 3 of this Act, of all officers and employees of the Territory and the several counties whose compensation is paid (1) from the general fund of the Territory, or (2) from the general funds of the several counties or from the special funds of the counties the moneys in which come from the counties' general fund, or (3) from Federal funds or special funds of the Territory, whether in whole or in part, and whether directly or indirectly, but only to the extent that the amount required to pay the increase provided by this Act cannot be obtained from the United States or from any special fund of the Territory. Insofar as other officers and employees of the Territory and the several counties are concerned the increases shall be provided from the funds from which the compensation of such person is regularly paid.

(b) To discharge the employer contributions of the Territory and the several counties to the employees' retirement system of the Territory in respect to the compensation for which an appropriation is made by subsection (a) of this section.

SECTION 6. Sections 1, 2 and 3 of this Act shall take effect on September 1, 1955; section 4 of this Act shall take effect on July 1, 1955; **provided** that if H. B. No. 31 [Act 274] of the Twenty-Eighth Legislature is enacted into law the provisions of section 4 of this Act shall supersede the amendment to section 106, Revised Laws of Hawaii 1945, as amended, which appears as "Sec. 110" in said H. B. No. 31 [Act 274]; and, **provided** further, that if said H. B. No. 31 [Act 274] is enacted into law, the provisions of section 4 of this Act shall supersede any provisions in said H. B. No. 31 [Act 274], relating to service anniversary dates, which are contrary to the provisions of the last paragraph of section 4 of this Act.

(Approved July 7, 1955.) **H.B. 351, Act 276.**

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## ACT 277

An Act Providing an Insurance Law for the Territory of Hawaii; Regulating Insurance Companies and the Insurance Business; Creating an Insurance Bureau and Establishing the Office of Insurance Commissioner; Providing Penalties for the Violation of the Insurance Law; and Further Amending Chapter 161 of the Revised Laws of Hawaii 1945, as Amended.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Except as provided in Section 3, Chapter 161 of the Revised Laws of Hawaii 1945, as amended, is hereby further amended to read as follows:

### "CHAPTER 161 INITIAL PROVISIONS

Sec. 8451.01. Short Title: This Act constitutes and may be cited as the Hawaii Insurance Law.

Sec. 8451.02. Compliance Required: No person shall transact

a business of insurance in this Territory without complying with the applicable provisions of this chapter. Any person transacting a business of insurance under the provisions of chapter 162 of the Revised Laws of Hawaii 1945 shall be subject to the provisions of this chapter only to the extent provided in chapter 162.

Sec. 8451.03. Public Interest: The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. Upon the insurer, the insured, and their representatives rests the duty of preserving inviolate the integrity of insurance.

Sec. 8451.04. Insurance Defined: 1. Insurance is a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies.

2. The following contracts are not considered to be insurance for the purposes of this chapter:

- (1) A title insurance contract;
- (2) A bond with respect to which no premium is charged or paid;
- (3) A bond or contract or undertaking in the performance of which the surety has an interest other than that of surety;
- (4) A plan or agreement between an employer and any employee or his representative, individually or collectively, by the terms of which the employer or the parties to the plan or agreement agree to contribute to the cost of non-occupational disability benefits, medical attention, treatment or hospitalization for the employee or members of his family unless such plan is underwritten by an insurer as defined in this chapter.

Sec. 8451.05. Insurer Defined: Insurer means every person engaged in the business of making contracts of insurance and includes reciprocal or inter-insurance exchanges.

Sec. 8451.06. Classes of Insurance: For the purposes of this chapter, the classes of insurance are: Life insurance (including industrial and group life insurance); disability insurance (including group disability insurance); property insurance; marine and transportation insurance; vehicle insurance; general casualty insurance; surety insurance; and such other classes as may be authorized by law.

Sec. 8451.07. Life Insurance Defined: Life insurance is insurance on human lives and insurance appertaining thereto or connected therewith. For the purposes of this chapter the transacting of life insurance includes the granting of annuities and endowment benefits; additional benefits in event of death or dismemberment by accident or accidental means; additional benefits in event of total and permanent disability of the insured; and optional modes of settlement of proceeds.

Sec. 8451.08. Disability Insurance Defined: Disability insurance, also referred to as accident and sickness insurance, is insurance against bodily injury, disablement or death by accident, or accidental means, or the expense thereof; against disablement or expense resulting from sickness; and every insurance appertaining thereto.

Sec. 8451.09. **Property Insurance Defined:** Property insurance is insurance against loss of or damage to real or personal property of every kind and any interest therein, from any or all hazard or cause and against loss consequential upon such loss or damage. An inclusion within other defined classes of insurance of the right to insure against certain designated perils to real or personal property shall not be deemed a diminution of the definition of property insurance.

Sec. 8451.10 **Marine and Transportation Insurance Defined:** Marine and transportation insurance is:

- (1) Insurance against any and all kinds of loss or damage to:
  - a. Vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas or other waters, on land or in the air, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting the same or during any delays, storage, transshipment, or reshipment incident thereto, including marine builder's risks and all personal property floater risks; and
  - b. Person or to property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage to either, arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to the person arising out of the ownership, maintenance or use of automobiles); and
  - c. Precious stones, jewels, jewelry, gold, silver and other precious metals, whether used in business or trade or otherwise and whether the same be in course of transportation or otherwise; and
  - d. Bridges, tunnels and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage) unless fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion are the only hazards to be covered; piers, wharves, docks and slips, excluding the risks of fire, tornado, sprinkler leakage, hail, explosion, earthquake, riot and/or civil commotion; other aids to navigation and transportation, including dry docks and marine railways, against all risks.
- (2) Marine protection and indemnity insurance, meaning insurance against, or against legal liability of the insured for, loss,

damage or expense arising out of, or incident to, the ownership, operation, chartering, maintenance, use, repair or construction of any vessel, craft or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness or death or for loss of or damage to the property of another person.

Sec. 8451.11. Vehicle Insurance Defined: 1. Vehicle insurance is insurance against loss of or damage to any land vehicle or aircraft or any draft or riding animal or to property while contained therein or thereon or being loaded or unloaded therein or therefrom, and against any loss, expense or liability for loss or damage to persons or property resulting from or incident to ownership, maintenance, or use of any such vehicle or aircraft or animal. 2. Insurance against accidental death or accidental injury to individuals including the named insured while in, entering, alighting from, adjusting, repairing, cranking, or caused by being struck by a vehicle, aircraft, or draft or riding animal, if such insurance is issued as part of insurance on the vehicle, aircraft, or draft or riding animal, shall be deemed to be vehicle insurance.

Sec. 8451.12. General Casualty Insurance Defined: General casualty insurance includes vehicle insurance as defined in section 8451.11, disability insurance defined in section 8451.08 and in addition is insurance:

- (1) Against legal liability for the death, injury, or disability of any human being, or for damage to property.
- (2) Of medical, hospital, surgical and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury or disability of human beings.
- (3) Of the obligations accepted by, imposed upon, or assumed by employers under law for death, disablement or injury to employees.
- (4) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation or wrongful conversion, disposal or concealment, or from any attempt of any of the foregoing; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances or any other valuable papers or documents, resulting from any cause, except while in the mail.
- (5) Upon personal effects of individuals, by an all-risk type of policy commonly known as the personal property floater.
- (6) Against loss or damage to glass and its appurtenances resulting from any cause.
- (7) Against any liability and loss or damage to property resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus.
- (8) Against loss of or damage to any property of the insured resulting from the ownership, maintenance or use of elevators, except loss or damage by fire.
- (9) Against loss or damage to any property caused by the breakage or leakage of sprinklers, water pipes and containers, or

- by water entering through leaks or openings in buildings.
- (10) Against loss or damage resulting from failure of debtors to pay their obligations to the insured (credit insurance).
  - (11) Against loss of or damage to any domesticated or wild animal resulting from any cause (livestock insurance).
  - (12) Against loss of or damage to any property of the insured resulting from collision of any other object with such property, but not including collision to or by vessels, craft, piers or other instrumentalities of ocean or inland navigation (collision insurance).
  - (13) Against legal liability of the insured, and against loss, damage or expense incident to a claim of such liability, and including any obligation of the insured to pay medical, hospital, surgical and funeral benefits to injured persons, irrespective of legal liability of the insured, arising out of the death or injury of any person, or arising out of injury to the economic interest of any person as the result of negligence in rendering expert, fiduciary or professional service (malpractice insurance).
  - (14) Against any other kind of loss, damage, or liability properly the subject of insurance and not within any other class or classes of insurance as defined in sections 8451.07 through 8451.14, if such insurance is not contrary to law or public policy.

Section 8451.13. Surety Insurance Defined: Surety insurance includes:

- (1) Bail bond insurance, which is a guarantee that any person, in or in connection with any proceedings in any court, will:
  - a. attend in court when required, or
  - b. will obey the orders or judgment of the court, as a condition to the release of such person from confinement, and the execution of bail bonds for any such purpose. The making of property or cash bail does not constitute the transacting of bail bond insurance.
- (2) Fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust.
- (3) Guaranteeing the performance of contracts and guaranteeing and executing bonds, undertakings, and contracts of suretyship.
- (4) Indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debts, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semi-precious stones, including any loss while the same are being transported in armored motor vehicles, or by messenger, but not including any other risks of transportation or navigation; also against loss or damage to such an insured's premises, or to his furnishings, fixtures, equipment, safes and vaults therein, caused by burglary, robbery,

theft, vandalism or malicious mischief, or any attempt thereat.

(5) Forgery insurance.

Sec. 8451.14. Ocean Marine Insurance Defined: Ocean marine insurance (although not a class of insurance as named in section 8451.06), whenever the term is used herein, means insurance:

- (1) Upon vessels, crafts, hulls and of interests therein or with relation thereto;
- (2) Of marine builders' risks, marine war risks, and contracts of marine protection and indemnity insurance;
- (3) Of freights and disbursements pertaining to a subject of insurance coming within this definition;
- (4) Of personal property and interests therein, in course of movement into or out of this Territory or among the islands of this Territory, or in course of exportation from or importation into any country, or in course of transportation coastwise, including transportation by land, water or air from point of origin to final destination, in respect to, appertaining to, or in connection with, any risk or peril of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, trans-shipment or re-shipment incident thereto.

Sec. 8451.15. Person Defined: Person means any individual, company, insurer, association, organization, group, reciprocal or inter-insurance exchange, partnership, business trust, or corporation.

Sec. 8451.16. State Defined: State means any state of the United States, the territories of Alaska and Hawaii, the Government of Puerto Rico, and the District of Columbia.

Sec. 8451.17. United States Defined: United States, when used to signify place, means the states of the United States, the territories of Alaska and Hawaii, the Government of Puerto Rico, and the District of Columbia.

Sec. 8451.18. Penalties: Violation of any provision of this chapter is punishable by a fine of not less than ten dollars nor more than one thousand dollars, or by imprisonment for not more than one year, or both fine and imprisonment, in addition to any other penalty or forfeiture provided herein or otherwise by law.

Sec. 8451.19. Constitutionality: If any provision of this chapter or the application thereof to any circumstance is held invalid, the remainder of the chapter, or the application of the provision to other circumstances, is not affected thereby.

Sec. 8451.20. Existing Officers: Continuation by this chapter of any office existing under any act repealed herein preserves the tenure of the individual holding the office at the effective date of this chapter.

Sec. 8451.21. Existing Authorizations: Every license or certificate of authority in force on the day before the effective date of this chapter and existing under any act herein repealed is valid until its original expiration date, unless earlier terminated in accordance with this chapter. Thereupon, if the licensee or certificate holder desires

such authorization to continue to be effective, a new license or certificate of authority must be issued.

Sec. 8451.22. Existing Insurance Forms, Rates, and Filings: Every form of insurance document and every rate or other filing lawfully in use or lawfully filed at the effective date of this chapter may continue to be so used or be effective, until the Commissioner otherwise prescribes pursuant to this chapter; except, that neither this chapter nor the Commissioner shall prohibit the use of any such document before expiration of one year from and after the effective date of this chapter.

Sec. 8451.23. Existing Actions, Violations: No action taken by the Commissioner, nor proceeding commenced, nor right accrued, nor violation of law existing under any act herein repealed, is affected by the repeal, but all procedure hereafter taken in reference thereto shall conform to this chapter as far as possible.

Sec. 8451.24. Headings: The meaning or scope of any provision is not affected by any heading.

Sec. 8451.25. Particular Provisions Prevail: Provisions of this chapter relating to a particular class of insurance or a particular type of insurer or to a particular matter prevail over provisions relating to insurance in general or insurers in general or to such matter in general.

### **INSURANCE BUREAU AND COMMISSIONER**

Sec. 8452.01. Insurance Bureau and Commissioner: 1. There is created an Insurance Bureau of this Territory. It shall be a Bureau of the Treasury Department of this Territory. It shall be headed by a Commissioner of Insurance. The Treasurer of this Territory, by virtue of his office, shall be Commissioner of Insurance.

2. Commissioner, where used in this chapter means the Insurance Commissioner of this Territory, and Bureau means the Insurance Bureau of this Territory.

Sec. 8452.02. Bond: The Commissioner is not required to execute a bond, but he may not enter upon his duties until he has executed any bond which is required of him, as Treasurer.

Sec. 8452.03. Salary: The Commissioner shall not receive any salary in addition to his salary as Treasurer.

Sec. 8452.04. Seal: The official seal of the Commissioner shall be a vignette of King Kamehameha I, with the words "Insurance Commissioner, Territory of Hawaii" surrounding the vignette. Any certificate or license issued by the Commissioner shall bear his official seal.

Sec. 8452.05. General Powers, Duties: 1. The Commissioner shall have the authority expressly conferred upon him by or reasonably implied from the provisions of this chapter.

2. The Commissioner shall execute his duties and shall enforce the provisions of this chapter.

3. The Commissioner may:

(1) Make reasonable rules and regulations for effectuating any



provision of this chapter, except those relating to his appointment, qualifications, or compensation.

- (2) Conduct examinations and investigations to determine whether any person has violated any provision of this chapter or to secure information useful in the lawful administration of any such provision.

Sec. 8452.06. Order, Notice: 1. Orders and notices of the Commissioner shall not be effective unless in writing signed by him or by his authority.

2. Every such order or notice shall:

- (1) Contain a concise statement of the grounds upon which it is based.
  - (2) Designate the provisions of this chapter pursuant to which action is so taken or proposed to be taken.
  - (3) State the effective date of such order or notice.
3. An order or a notice may be given by delivery to the person to be ordered or notified or by mailing it, postage prepaid, and registered with return receipt requested addressed to him at his residence or principal place of business as last of record in the Bureau.

Sec. 8452.07. Enforcement: 1. The Commissioner may prosecute an action in any court of competent jurisdiction to enforce any order made by him pursuant to any provision of this chapter.

2. If the Commissioner has cause to believe that any person has violated any penal provision of this chapter or of other laws relating to insurance he shall certify the facts of the violation to the public prosecutor of the jurisdiction in which the offense was committed.

3. If the Commissioner has cause to believe that any person is violating or is about to violate any provision of this chapter or any order of the Commissioner, he may bring an action in any court of competent jurisdiction to enjoin the person from continuing the violation or doing any act in furtherance thereof.

4. The Attorney General and the several Attorneys throughout the Territory shall prosecute or defend all proceedings brought pursuant to the provisions of this chapter when requested by the Commissioner.

Sec. 8452.08. Deputies, Employees: 1. There shall be a Chief Deputy Commissioner, who shall be subject to the provisions of chapters 2 and 3 of the Revised Laws of Hawaii 1945, as amended. He shall have power to perform any act or duty conferred upon the Commissioner, and shall take and subscribe the same oath of office as the Commissioner, which oath shall be endorsed upon the certificate of his appointment and filed in the office of the Secretary of Hawaii.

2. There may be additional Deputy Commissioners and examiners and actuarial, technical and administrative assistants and clerks for such purposes as the Commissioner may designate. All of such positions shall be subject to the provisions of chapters 2 and 3 of the Revised Laws of Hawaii 1945, as amended.

3. The Commissioner shall be responsible for the official acts of his deputies and employees.

4. The Commissioner, or any deputy, or any employee of the Insurance Bureau, shall not represent, be employed by, own any securities of, be a creditor of, or be financially interested in any other manner

in, any insurer authorized to do business in this Territory, or in any insurance agency in this Territory, or in any insurance business of any kind in this Territory, except that the Commissioner, or any such deputy or employee, may be a policyholder or obligee in any such insurer.

5. The Commissioner may require any employee to be bonded as he shall deem proper. The cost of any such bond shall be borne by this Territory.

Sec. 8452.09. Commissioner May Delegate: Any power, duty, or function vested in the Commissioner by any provision of this chapter may be exercised, discharged, or performed by any employee of the Bureau acting in the name and by the delegated authority of the Commissioner.

Sec. 8452.10. Offices: The Commissioner shall have an office at Honolulu, and may maintain such offices elsewhere in this Territory as he may deem necessary.

Sec. 8452.11. Records: 1. The Commissioner shall preserve in permanent form records of his proceedings, hearings, investigations, and examinations, and shall file such records in his office.

2. The records of the Commissioner and insurance filings in his office shall be open to public inspection, except as otherwise provided by this chapter.

3. Five years after conclusion of transactions to which they relate, the Commissioner may destroy any correspondence, claim files, working papers of examinations of insurers, reports of examination of insurers by insurance supervisory officials of other states, void or obsolete filings relating to rates, license applications, cards, expired bonds, records of hearings, investigations, and any similar records, documents, or memoranda now or hereafter in his possession.

4. Ten years after the year to which they relate, the Commissioner may destroy any foreign or alien insurer's annual statements, valuation reports, tax reports, or similar records or reports now or hereafter in his possession.

5. The Commissioner shall concurrently execute and file in a separate, permanent office file a certificate listing and giving a summary description of the records, files, documents, memoranda, as they are destroyed.

Sec. 8452.12. Copies and Certificates as Evidence: 1. Copies of records or documents in his office certified to by the Commissioner shall be received as evidence in all courts in the same manner and to the same effect as if they were the originals.

2. When required for evidence in court, the Commissioner shall furnish his certificate as to the authority of an insurer or other licensee in this Territory on any particular date, and the court shall receive the certificate in lieu of the Commissioner's testimony.

Sec. 8452.13. Interstate Cooperation: 1. The Commissioner shall to the extent he deems useful for the proper discharge of his responsibilities under the provisions of this chapter:

- (1) Consult and cooperate with the public officials having supervision over insurance in the states.

- (2) Share jointly with any one or more of the states in the employment of actuaries, statisticians, and other insurance technicians, whose services or the products thereof are made available and are useful to the participating states and to the Commissioner.
  - (3) Share jointly with any one or more of the states in establishing and maintaining offices and clerical facilities for purposes useful to the participating states and to the Commissioner.
2. All arrangements made jointly with any one or more of the states under items (2) and (3) of paragraph one of this section shall be in writing executed on behalf of this Territory by the Commissioner. Any such arrangement, as to participation of this Territory therein, shall be subject to termination by the Commissioner at any time upon reasonable notice.
3. For the purposes of this chapter National Association of Insurance Commissioners means that voluntary organization of the public officials having supervision of insurance in the respective states, districts, and territories of the United States, whatever other name such organization may hereafter adopt, and in the affairs of which each of such public officials is entitled to participate subject to the constitution and by-laws of such organization.

Sec. 8452.14. Supplies, Convention Blanks: The Commissioner shall purchase at the expense of this Territory and in the manner provided by law:

- (1) Printing, books, reports, furniture, equipment, and supplies as he deems necessary to the proper discharge of his duties under this chapter.
- (2) Convention form insurers' annual statement blanks, which he may purchase from any printer manufacturing the forms for the various states.
- (3) Copies of the insurance laws of this Territory.

Sec. 8452.15. Annual Report: The Commissioner, as early each year as accurate preparation enables, shall make and publish a report which shall contain:

- (1) The condition of all insurers authorized to do business in this Territory during the preceding year.
- (2) Such additional information and comments relative to insurance activities in this Territory as he deems proper.

## **EXAMINATIONS, INVESTIGATIONS, HEARINGS AND APPEALS**

Sec. 8453.01. Witnesses Subpoenaed: 1. The Commissioner, either on his own behalf or on behalf of any interested party, may take depositions, and subpoena witnesses or documentary evidence. The Commissioner may administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation.

2. The subpoena shall have the same force and effect and shall be served in the same manner as if issued from a court of record.

3. Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a court of record. Witness fees, mileage, and the actual expense necessarily incurred in securing attendance of wit-

nesses and their testimony shall be itemized, and shall be paid by the person as to whom the examination is being made, or by the person if other than the Commissioner, at whose request the hearing is held.

Sec. 8453.02. **Testimony Compelled:** A person shall not be excused from attending and testifying or producing any evidence upon any examination, hearing, or investigation conducted by or under authority of the Commissioner, on the ground that his testimony or the evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. Unless such person in writing expressly waives such privilege or immunity, he shall not be prosecuted or punished in any criminal action or proceeding for or on account of any act, transaction, matter or thing concerning which he is so compelled to produce evidence or to testify under oath, except for perjury committed in such testimony.

Sec. 8453.03. **Contempt Proceedings:** If any individual fails to obey the subpoena, or obeys the subpoena but refuses to testify when required concerning any matter under examination or investigation or the subject of the hearing, the Commissioner shall file his written report thereof and proof of service of his subpoena, in the Circuit Court of the county where the examination, hearing, or investigation is being conducted. Thereupon the Court shall forthwith cause the individual to be brought before it to show cause why he should not be held in contempt, and if so held, may punish him as if the failure or refusal related to a subpoena from or testimony in that Court.

Sec. 8453.04. **Examination of Insurers:** 1. The Commissioner may examine the affairs, transactions, accounts, records, documents, and assets of each authorized insurer as often as he deems prudent. He shall so examine each domestic insurer at least once in every three years. Examination of an alien insurer may be limited to its insurance transactions in the United States.

2. The Commissioner shall examine fully each insurer applying for authority to do business in this Territory.

3. In lieu of making his own examination, the Commissioner may accept a full report of the last recent examination of a foreign or alien insurer certified to by the insurance supervisory official of the state, province, or country of domicile or the state of entry into the United States. A certified copy of the annual report of the directors and statement of accounts approved by the British Board of Trade in London in accordance with the British Assurance Companies' Act may be acceptable to the Commissioner in the absence of other British insurance supervisory officials' examination.

Sec. 8453.05. **Examination of Agents, Managers, Promoters:** For the purpose of ascertaining its condition, or compliance with this chapter, the Commissioner may as often as he deems advisable examine the insurance accounts, records, documents, and transactions of:

- (1) Any insurance general agent, subagent, solicitor, or adjuster.
- (2) Any person engaged in or proposing to be engaged in or as-

sisting in the promotion or formation of a domestic insurer, or a stock corporation to finance a domestic mutual insurer or the production of its business, or a corporation to be attorney-in-fact for a domestic reciprocal insurer.

Sec. 8453.06. Access to Records; Corrections: 1. Every person being examined, its officers, employees, and representatives shall produce and make freely accessible to the Commissioner the accounts, records, documents, and files in his possession or control relating to the subject of the examination, and shall otherwise facilitate the examination.

2. If the Commissioner finds the accounts to be inadequate, or improperly kept or posted, he may employ experts to rewrite, post or balance them at the expense of the person being examined, if such person has failed to correct such accounting records after the Commissioner has given him written notice and a reasonable opportunity to do so.

Sec. 8453.07. Examination Reports: 1. The Commissioner shall make a full written report of each examination made by him.

2. The report shall be certified by the Commissioner or by his examiner in charge of the examination, and shall be filed in the Bureau subject to paragraph three of this section.

3. The Commissioner shall furnish to the person examined a copy of the examination report within ninety days after the execution of the report by the examiner and not less than twenty days prior to the filing of the report for public inspection in the Bureau. If such person so requests in writing within such twenty-day period, the Commissioner shall hold a hearing to consider objections of such person to the report as proposed, and shall not so file the report until after such hearing and until after any modifications in the report deemed necessary by the Commissioner have been made.

4. The report, when filed for public inspection, shall be admissible in evidence in any action or proceeding brought by the Commissioner against the person examined, or its officers or agents; except, that the Commissioner or his examiners may at any time testify and offer other proper evidence as to information secured during the course of an examination, whether or not a written report of the examination has at that time been either made, served, or filed in the Bureau.

Sec. 8453.08. Reports Withheld: The Commissioner may withhold from public inspection any examination or investigation report for so long as he deems prudent.

Sec. 8453.09. Examination Expense: 1. Examinations of any insurer coming under the provisions of this chapter made by the Commissioner or his examiners and employees shall, including fees, mileage, and expense incurred as to witnesses, be at the expense of the insurer examined.

2. The insurer examined and liable therefor shall pay to the Commissioner's examiners upon presentation of itemized statement thereof, their actual travel expenses, their reasonable living expense allowance, and their per diem compensation at a reasonable rate ap-

proved by the Commissioner, incurred on account of the examination. The Commissioner or his examiners shall not receive or accept any additional emolument on account of any examination.

Sec. 8453.10. Hearings: 1. The Commissioner shall hold a hearing if required by any provision of this chapter. He may hold other hearings as he deems necessary for such purposes as are within the scope of this chapter.

2. The hearing shall be held at a place designated by the Commissioner and at his discretion it may be open to the public.

3. Application for a hearing made to the Commissioner pursuant to any provision of this chapter shall be in writing, shall specify in what respects the person so applying was aggrieved and the grounds to be relied upon as a basis for the relief to be demanded at the hearing. The Commissioner shall hold such hearing applied for within thirty days after his receipt of the application unless postponed by mutual consent.

Sec. 8453.11. Stay of Action: 1. Such demand for a hearing received by the Commissioner prior to the effective date of action taken or proposed to be taken by him shall stay such action pending the hearing, except as to action taken or proposed:

- (1) under an order on hearing, or
- (2) under an order pursuant to an order on hearing, or
- (3) under an order to make good an impairment of the assets of an insurer.

2. In any case where an automatic stay is not provided for, and if the Commissioner after written request therefor fails to grant a stay, the person aggrieved thereby may apply to the Circuit Court of the First Judicial Circuit for a stay of the Commissioner's action.

Sec. 8453.12. Notice of Hearing: 1. The Commissioner shall, not less than ten days in advance, give notice to each person to be affected by the hearing, of the time and place and specifying the matters to be considered at the hearing. If the hearing concerns the suspension or revocation of a license, the notice shall also specify the grounds for such suspension or revocation.

2. If the persons to be given notice are not specified in the provision pursuant to which the hearing is held, the Commissioner shall give such notice to all persons directly affected by such hearing.

Sec. 8453.13. Show Cause Notice: If any person is entitled to a hearing by any provision of this chapter before any proposed action is taken, the notice of the proposed action may be in the form of a notice to show cause stating that the proposed action may be taken unless such person shows cause, at a hearing to be held as specified in the notice, why the proposed action should not be taken, and stating the basis of the proposed action.

Sec. 8453.14. Adjourned Hearing: The Commissioner may adjourn any hearing from time to time and from place to place without other notice of the adjourned hearing than announcement thereof at the hearing.

Sec. 8453.15. Non-attendance: The validity of any hearing held

in accordance with the notice thereof shall not be affected by failure of any person to attend or to remain in attendance.

Sec. 8453.16. Procedure: 1. The Commissioner shall preside at the hearing and shall keep a true and concise record of the proceedings thereat. Formal rules of pleading or evidence need not be observed in the hearing; however, the Commissioner, as a matter of policy, shall exclude irrelevant, immaterial, or unduly repetitious evidence.

2. At the expense of and at the written request seasonably made by any person affected by the hearing, the Commissioner shall cause a full stenographic record of the proceedings to be made by a competent stenographic reporter and if transcribed such record shall be made a part of the Commissioner's record of the hearing. A copy of such record shall be furnished any other person upon written request and at the expense of such person.

3. The Commissioner shall allow any person affected by the hearing to be present in person and by counsel during the giving of all testimony and shall allow him a reasonable opportunity to inspect all documentary evidence, to examine witnesses, and to present evidence in support of his interest. Upon good cause shown, the Commissioner may permit any person who has a valid interest in the proceeding to intervene, appear, and be heard at the hearing.

4. Any person heard shall make full disclosure of facts pertinent to the subject of inquiry as requested by the Commissioner or by any person affected by the hearing.

Sec. 8453.17. Order on Hearing: 1. Within thirty days after the termination of a hearing the Commissioner shall make his order thereon and shall give a copy of the order to each person to whom notice of the hearing was given or required to be given.

2. The order shall contain:

- (1) A concise statement of the action taken.
- (2) The effective date of such action.
- (3) A designation of the provisions of this chapter pursuant to which the action is taken.
- (4) A concise statement of the findings of the Commissioner in support of the action.

3. An order on hearing may confirm, modify, or nullify action taken under an existing order, or may constitute the taking of any new action coming within the scope of the notice of such hearing.

Sec. 8453.18. Appeal from Commissioner's Order: 1. Any person aggrieved on account of any official action or threatened action of the Commissioner, or of his failure to act if such failure is deemed to constitute an act under any provision of this chapter, may demand a hearing thereon as provided in section 8453.10. Any person aggrieved by any order of the Commissioner, including any order refusing a hearing, may appeal therefrom to the Circuit Court of the First Judicial Circuit.

2. The appeal must be taken within thirty days after the order complained of was given by the Commissioner. If not so taken, the right to appeal from or restrain action under the order shall conclusively be deemed to have been waived.

3. For the purpose of this section, person aggrieved shall include any person directly or indirectly injured or threatened with injury on account of any such order or action whether or not such person was a party to the proceedings, if any, out of which the order or action arises.

Sec. 8453.19. How Appeal Taken: The appeal shall be taken by filing with the clerk of the Circuit Court of the First Judicial Circuit a petition for a review of the Commissioner's order, containing a copy of the order and a statement of the particulars in which it is claimed that the order is in error and a statement of the relief prayed for, and by serving upon the Commissioner a copy of the petition, certified by the clerk of the court to be a true copy.

Sec. 8453.20. Record to Court: Upon being served with a copy of the petition for review of an order on hearing, the Commissioner shall forthwith prepare and file with the clerk of the court a true and complete transcript of his record of the hearing on which the order appealed from was made. The cost of the transcript may be included in the costs allowed by the court.

Sec. 8453.21. Hearing the Appeal: The court shall give precedence to and may summarily hear and determine the appeal. The court shall hear the appeal upon the transcript of the record of the Commissioner's hearing and on such additional proper evidence as may be offered by any party. The appeal shall not be limited to questions of law, and the court shall not be bound by any finding of fact made by the Commissioner not supported by substantial evidence, nor by any exercise by the Commissioner of any discretionary authority conferred on him by this chapter which the court deems to have been exercised in an arbitrary and unreasonable manner. After considering the evidence the court may affirm, modify, or set aside the order appealed from or remand the action to the Commissioner for further proceedings in accordance with the court's action. Costs shall be awarded as in civil cases.

Sec. 8453.22. Stay of Action on Appeal: 1. The taking of an appeal shall not stay any action taken or proposed to be taken by the Commissioner under the order appealed from unless a stay is granted by the court at a hearing held as part of the proceedings on appeal. 2. In granting a stay of action, the court shall consider whether the stay would tend to injure the public interest. In granting a stay, the court may require of the person taking the appeal such security or other conditions as it deems proper.

3. If the order appealed from is one suspending, revoking, or refusing to renew an agent's, broker's, solicitor's or adjuster's license, the appellant by filing a bond with the clerk of the court, subject to approval of the court, in the sum of one thousand dollars, conditioned to pay all costs that may be awarded against him, may, if filed prior to the effective date of such order, supersede the order appealed from until the final determination of the appeal.

Sec. 8453.23. Appeals to Supreme Court: An appeal may be taken to the Supreme Court of this Territory, as in civil actions, from judgment of the Circuit Court made pursuant to any provision of



this chapter. Such appeals shall be advanced upon the trial calendar of the Supreme Court and be heard at the earliest convenient date.

### **INSURERS - GENERAL REQUIREMENTS**

Sec. 8454.01. Domestic - Foreign - Alien Insurers: 1. A domestic insurer is one formed under the laws of this Territory.

2. A foreign insurer is one formed under the laws of any state, as defined in section 8451.16, other than this Territory.

3. An alien insurer is one formed under the laws of a nation other than the United States.

Sec. 8454.02. Must Have Authority: 1. No person shall act as an insurer and no insurer shall transact insurance in this Territory other than as authorized by a certificate of authority granted to it by the Commissioner; except, as to such transactions as are expressly otherwise provided for in this chapter.

2. Every certificate of authority shall specify the name of the insurer, the location of its principal office, the name of and location of the principal office of its attorney-in-fact if a reciprocal insurer, and the classes of insurance it is authorized to transact in this Territory.

3. The investigation and adjustment of claims in this Territory arising under insurance contracts issued by an unauthorized insurer, except surplus line insurance issued pursuant to section 8463.05, shall be deemed to constitute the transacting of insurance in this Territory, unless the same shall be isolated or non-recurring transactions.

Sec. 8454.03. Qualifications for Authority: 1. To qualify for and hold a certificate of authority an insurer must:

- (1) Be a stock, mutual, or reciprocal insurer of the same general type as may be formed as a domestic insurer under the provisions of sections 8455.01 through 8455.19 of this chapter; and
- (2) have capital funds as required by this chapter, based upon the type and domicile of the insurer and the classes of insurance proposed to be transacted; and
- (3) transact or propose to transact in this Territory insurances which are among those authorized by its charter, and only such insurance as meets the standards and requirements of this chapter; and
- (4) have appointed a general agent who is qualified according to the standards set forth in sections 8465.01 through 8465.46; and
- (5) fully comply with, and qualify according to, the other provisions of this chapter.

2. Item (4) of paragraph one of this section shall not apply to a domestic insurer.

Sec. 8454.04. Charter Defined: Charter means articles of incorporation, of agreement, of association, or other basic constituent document of a corporation, or subscribers' agreement and power of attorney for attorney of a reciprocal insurer.

Sec. 8454.05. Capital Funds Defined: Capital funds means the excess of the assets of an insurer over its liabilities. Capital stock,

if any, shall not be deemed to be a liability for the purposes of this section.

Sec. 8454.06. **Classes of Insurance Authorized:** An insurer which otherwise qualifies therefor may be authorized to transact any one or more classes of insurance as defined in sections 8451.07 through 8451.14. A life insurer shall not transact any insurance in addition to life insurance except disability, personal injury liability, employer's liability, and workmen's compensation insurance. A reciprocal insurer shall not transact life or disability insurance.

Sec. 8454.07. **Funds Required, Existing Insurers:** Any insurer existing and authorized in this Territory on the day before the effective date of this chapter may continue to be authorized to transact the same class or classes of insurance which it was then authorized to transact so long as it possesses fully paid-up capital stock, if a stock insurer, or surplus, if a mutual or reciprocal insurer, and has on deposit the assets, all in amount and as was required of it by section 8470(h) of the Revised Laws of Hawaii 1945, if any, for such authority under the laws of this Territory in force as of the day before the effective date of this chapter; but no such insurer shall be authorized to transact any other or additional class or combination of classes of insurance unless it fully qualifies for authority therefor upon the basis of funds otherwise required under this chapter of a domestic insurer of the same type.

Sec. 8454.08. **Funds Required, New Insurers:** To qualify for authority to transact any one class of insurance an insurer, not existing and authorized in this Territory on the day before the effective date of this chapter, shall possess and maintain paid-up capital stock, if a stock insurer, or surplus, if a reciprocal insurer or if a domestic mutual insurer which does not seek to qualify upon the basis of applications and premiums collected as provided in sections 8458.02 through 8458.06, in amount not less than as shown by the applicable portion of the following Schedule "A":

#### SCHEDULE "A"

Class of Insurance	Amount Required
Life	\$200,000.00
Disability	100,000.00
Life and Disability	250,000.00
Property	200,000.00
Marine and Transportation	250,000.00
Vehicle	200,000.00
General Casualty	300,000.00
Surety	300,000.00

Sec. 8454.09. **Additional Funds Required, New Insurers:** In addition to the paid-up capital stock or surplus as required under sections 8454.08 and 8454.10, the following insurers shall possess when first authorized bona fide surplus equalling in amount not less than fifty per cent of the capital stock or surplus otherwise required for the class or classes of insurance proposed to be transacted:

- (1) Domestic stock or reciprocal insurers, not existing and authorized in this Territory on the day before the effective date of this chapter.
- (2) Domestic mutual insurers, not existing and authorized in this Territory on the day before the effective date of this chapter, which qualify upon the basis of possession of surplus in lieu of applications and premiums collected as provided in sections 8458.02 through 8458.06.
- (3) Foreign and alien insurers which have been insurers for less than five years.

Sec. 8454.10. Funds Required, Additional Classes of Insurance, Existing and New Insurers: 1. An insurer otherwise qualified therefor may be authorized to transact combinations of classes of insurance while possessing and maintaining additional paid-up capital stock, if a stock insurer, or additional surplus, if a mutual or reciprocal insurer, subject to paragraph two of this section as to domestic mutual or reciprocal insurers, in amount not less than as determined under the following Schedule "B".

2. To qualify for authority to transact a combination of classes of insurance, a domestic mutual or reciprocal insurer shall possess surplus in amount equal to the paid-up capital stock required of stock insurers for authority to transact a like combination of classes of insurance.

Sec. 8454.11. Application for Authority: To apply for an original certificate of authority an insurer shall:

- (1) File with the Commissioner its request therefor showing:
  - a. Its name, home office location, type of insurer, organization date, and state or country of its domicile, and if a reciprocal, the name and location of the principal office of its attorney-in-fact.
  - b. The classes of insurance it proposes to transact.
  - c. Additional information as the Commissioner may reasonably require.
- (2) File with the Commissioner:
  - a. A copy of its charter as amended, certified, if a foreign or alien insurer, by the proper public officer of the state or country of domicile.
  - b. A copy of its by-laws as amended, certified by its proper officer.
  - c. A copy of its annual statement as of December thirty-first last preceding.
  - d. If a foreign or alien insurer, or a domestic reciprocal insurer, an appointment of the Commissioner as its attorney to receive service of legal process. If a foreign or alien insurer, the name and business address of its authorized resident agent upon whom process may be served in all cases.
  - e. If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its proper officer.

**SCHEDULE "B"**

If Authorized to Transact: (Basic Stock Insurer Capital Shown in Parentheses)	Additional Amount Required for Authority to Transact Additional Classes of Insurance:					
	Disability	Property	Marine and Transportation	Vehicle	General Casualty	Surety
Life (\$200,000)	50,000	xxx	xxx	xxx	Qualify for general casualty	xxx
Disability (\$100,000)	xxx	150,000	225,000	Qualify for general casualty	Qualify for general casualty	275,000
Property (\$200,000)	75,000	xxx	200,000	150,000	250,000	250,000
Marine and Transportation (\$250,000)	75,000	150,000	xxx	150,000	200,000	200,000
Vehicle (\$200,000)	75,000	150,000	200,000	xxx	Qualify for general casualty	250,000
General Casualty (\$300,000)	No additional funds required	150,000	150,000	No additional funds required	xxx	200,000
Surety (\$300,000)	75,000	150,000	150,000	150,000	200,000	xxx

395 An insurer while possessing \$500,000 of capital, if a stock insurer, or of surplus, if a reciprocal or mutual insurer, may be authorized to transact all classes of insurance, subject to section 8454.06 and to section 8454.09.

- f. If a foreign or alien insurer, a certificate from the proper public official of its state or country of domicile showing that it is duly organized and is authorized to transact the classes of insurance proposed to be transacted.
  - g. If a domestic reciprocal insurer, the declaration required by section 8459.08 of this chapter.
  - h. Certificate of the proper public official as to any deposit made or held as compliance with the provisions of this chapter.
  - i. Copy of report of the last examination made of the insurer certified by the insurance supervisory official of its state of domicile or entry into the United States.
  - j. Certificate of appointment of general agent.
  - k. Other documents or stipulations as the Commissioner may reasonably require to evidence compliance with the provisions of this chapter.
- (3) Deposit with the Commissioner the appropriate fees required by this chapter.

Sec. 8454.12. Alien Insurers—Deposit: 1. An alien insurer is not permitted to be authorized to transact a business of insurance in this Territory unless it deposits and maintains on deposit assets equal in amount to either the amount of paid-up capital stock, if a stock insurer, or surplus, if a mutual or reciprocal insurer, required of a domestic insurer to transact a business of insurance in like class or classes of insurance, or the amount of two hundred thousand dollars, whichever amount is the greater.

2. The deposit shall be for the security of all policyholders or policyholders and obligees of the insurer in the United States. It shall not be subject to diminution below the amount currently determined in accordance with paragraph one of this section so long as the insurer has outstanding any liabilities arising out of its business transacted in the United States.

3. The deposit shall be maintained with the Commissioner. In lieu of such deposit or part thereof, the Commissioner shall accept the certificate of the public official having supervision over insurance in another state showing that deposits by such insurer, or like part thereof, are being maintained by the insurer in such state for the benefit of all of the insurer's policyholders in the United States or all its policyholders and obligees in the United States, if the total deposit in this Territory and those evidenced by such certificate or certificates is in amount not less than the amount required pursuant to paragraph one of this section.

Sec. 8454.13. Authority Issued: If the Commissioner finds that an insurer has met the requirements for and is fully entitled thereto under this chapter, he shall issue to it a proper certificate of authority. If the Commissioner does not so find, the authority shall be refused within a reasonable length of time following filing by the insurer of the application therefor.

Sec. 8454.14. Extension, Amendment: 1. No certificate of authority shall contain an expiration date, but all certificates of au-

thority must be extended from time to time in order to continue to be valid. When the Commissioner issues or extends a certificate of authority, he shall determine the date prior to which the certificate of authority must be extended and shall so notify the insurer in writing. This date is called the extension date. As to every certificate of authority in force on the day before the effective date of this chapter, the first extension date after such effective date shall be any date not less than one year and not more than four years after date of issuance, and any subsequent extension date shall be any date not less than one year and not more than three years after date of extension. As to every other certificate of authority, the extension date shall be any date not less than one year and not more than three years after date of issue or extension of the certificate of authority. If the insurer qualifies therefor, its certificate of authority shall be extended.

2. The Commissioner shall amend a certificate of authority at any time in accordance with changes in the insurer's charter or insuring powers.

Sec. 8454.15. Limit of Risk: 1. No insurer shall retain net any fire or surety risk on any one subject of insurance, whether located or to be performed in this Territory or elsewhere, in an amount exceeding ten per cent of its surplus to policyholders, except that:

- (1) Domestic mutual insurers may insure up to the applicable limits provided by sections 8458.02, 8458.03, or 8458.04, if greater.
  - (2) In the case of fire risks adequately protected by automatic sprinklers or fire risks principally of noncombustible construction and occupancy, an insurer may retain fire risks as to any one subject in an amount not exceeding twenty-five per cent of the sum of (a) its unearned premium reserve and (b) its surplus to policyholders.
2. For the purposes of this section, a subject of insurance as to insurance against fire includes all properties insured by the same insurer which are customarily considered by underwriters to be subject to loss or damage from the same fire.
3. Reinsurance in an alien reinsurer not qualified under section 8454.30 may not be deducted in determining risk retained for the purposes of this section.
4. In the case of surety insurance, the net retention shall be computed after deduction of reinsurances, the amount assumed by any co-surety, the value of any security deposited, pledged, or held subject to the consent of the surety and for the protection of the surety.
5. This section shall not apply to insurance of marine risks or marine protection and indemnity risks.

Sec. 8454.16. Refusal or Revocation - Mandatory Provisions: The Commissioner shall refuse to extend or shall revoke or suspend an insurer's certificate of authority, in addition to other grounds therefor in this chapter, if the insurer:

- (1) Is a foreign or alien insurer and no longer qualifies or meets the requirements for the authority.
- (2) Is a domestic mutual or domestic reciprocal insurer, and fails

to make good a deficiency of assets as required by the Commissioner.

- (3) Is a domestic stock insurer and has assets less in amount than its liabilities, including its capital stock as a liability, and has failed to make good such deficiency as required by the Commissioner.
- (4) Knowingly exceeds its charter powers or its certificate of authority.

Sec. 8454.17. Refusal, Suspension, Revocation - Discretionary Provisions: The Commissioner may after a hearing suspend, revoke, or refuse to extend an insurer's certificate of authority, in addition to other grounds therefor in this chapter, if the insurer:

- (1) Knowingly fails to comply with or violates any provision of this chapter other than those for violation of which refusal, suspension, or revocation is mandatory.
- (2) Knowingly fails to comply with any proper order of the Commissioner.
- (3) Is found by the Commissioner upon examination, or other valid evidence, to be in unsound condition or in such condition as to render its further proceedings in this Territory hazardous to the public or to its policyholders in this Territory.
- (4) Refuses to remove or discharge a director or officer who has been convicted of any crime involving fraud or dishonesty.
- (5) Usually compels claimants under policies either to accept less than the amount due them or to bring suit against it to secure full payment of the amount due.
- (6) Is affiliated with and under the same general management, or interlocking directorate, or ownership as another insurer which transacts insurance other than reinsurance in this Territory without having a certificate of authority therefor, except as is permitted by this chapter.
- (7) Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination or give testimony concerning its affairs, or to produce its accounts, records, and files for examination by the Commissioner when required by this chapter, or refuses to perform any legal obligation relative to the examination.
- (8) Fails to pay any final judgment rendered against it upon any policy, bond, recognizance, or undertaking issued or guaranteed by it, within sixty days after the judgment became final or within sixty days after time for taking an appeal has expired or within sixty days after dismissal of an appeal before final determination, whichever date is the later.

Sec. 8454.18. Procedure upon Revocation, Suspension of Certificate of Authority: Upon revoking suspending or refusing to extend an insurer's authority to transact insurance the Commissioner shall forthwith:

- (1) Give notice thereof to the insurer not less than ten days in advance of the effective date of such revocation or suspension.
- (2) Likewise revoke or suspend all agent's authority to repre-

sent the insurer in this Territory and give notice thereof to such agents.

- (3) Give notice thereof to the insurance supervisory official of each other state in which the insurer is authorized to transact insurance.

Sec. 8454.19. Suspension Period: Except as otherwise expressly provided in this chapter the Commissioner may suspend an insurer's certificate of authority for a period not to exceed one year. He shall state in his order of suspension the period during which it will be effective.

Sec. 8454.20. Revival: An insurer whose certificate of authority has been suspended, revoked, or refused may subsequently be authorized, if the grounds for such suspension, revocation, or refusal no longer exist and the insurer is otherwise fully qualified and the insurer has reimbursed the Commissioner for all reasonable and necessary expense incurred by virtue of the suspension, revocation or revival of the certificate of authority.

Sec. 8454.21. Insurer's Name: 1. Every insurer shall conduct its business in its own legal name.

2. No insurer shall assume or use a name deceptively similar to that of any other authorized insurer, nor which tends to deceive or mislead as to the type of organization of the insurer.

Sec. 8454.22 Service of Legal Process: 1. Each authorized foreign or alien insurer shall appoint the Commissioner as its attorney to receive service of, and upon whom may be served, all legal process issued against it in this Territory upon causes of action arising within this Territory. Service upon the Commissioner as attorney shall constitute service upon the insurer.

2. With the appointment the insurer shall designate by name and address the person to whom the Commissioner shall forward legal process so served upon him. The insurer may change such person by filing a new designation. However, the insurer's last known principal office may be used by the Commissioner in lieu of the designated person.

3. The insurer shall file with the Commissioner a resolution adopted by its board of directors or other governing board consenting that service of process upon the Commissioner in any action or proceeding against the insurer brought or pending in this Territory upon any cause of action arising in or growing out of business transacted in this Territory, shall be valid service upon the insurer, and the consent shall be irrevocable, so long as a policy of insurance of such insurer shall remain in force in this Territory, or any loss remains unpaid therein.

4. The insurer shall also file the name and business address of its authorized resident agent upon whom process may be served in all cases. Until such time as such agent's authority shall be revoked by a notice in writing filed in the office of the Commissioner, service may be had upon the insurer by personal service upon such agent. In case a corporation is designated as an agent, service of process may be had by serving the same upon the president, vice-president, sec-



retary, treasurer or any director thereof; and in case a partnership is designated as an agent, service of process may be had by serving the same upon any member thereof. Service may be had on either the authorized agent or the Commissioner.

Sec. 8454.23. How Service on Commissioner Made: 1. Triplicate copies of legal process against an insurer for whom the Commissioner is attorney shall be served upon him either by a person competent to serve a summons, or by registered mail. At the time of service the plaintiff shall pay to the Commissioner five dollars, taxable as costs in the action. In the absence of the Commissioner the process may be served upon the Chief Deputy, or the Deputy in charge of the Insurance Bureau.

2. The Commissioner shall forthwith send one of the copies of the process, by registered mail with return receipt requested, to the person designated for the purpose by the insurer in its most recent such designation filed with the Commissioner, or to the insurer at its last known principal office if no such designation is on file, and return one copy to the plaintiff with his acknowledgement of service.

3. The Commissioner shall keep a record of the day and hour of service upon him of all such legal process. No proceedings shall be had against the insurer, and the insurer shall not be required to appear, plead, or answer until the expiration of forty days after the date of service upon the Commissioner.

Sec. 8454.24. Countersignature Required: 1. No insurer shall issue an insurance contract covering a subject of insurance resident or located in this Territory unless the insurance contract or countersignature endorsement is countersigned by its licensed general agent, or subagent if so authorized, a resident in this Territory, except as provided in section 8454.25. Such countersignature by a duly licensed general agent or subagent of an insurer originating a contract of insurance participated in by other insurers as co-sureties or co-indemnitors shall satisfy all countersignature requirements in respect to such contracts of insurance.

The Commissioner may suspend or revoke the certificate of authority of any insurer violating this provision.

2. A general agent or authorized subagent shall not sign or countersign any insurance contract or countersignature endorsement in blank. The Commissioner may suspend or revoke the license of any general agent or subagent violating this provision.

3. Such violations shall not invalidate any insurance contract.

Sec. 8454.25. Exceptions: The provisions of section 8454.24 shall not apply to reinsurance contracts between insurers, to life insurance, or to insurance contracts:

- (1) Issued as a surplus line under section 8463.05.
- (2) Covering ocean marine insurance.
- (3) Issued by a domestic insurer, if countersigned by an executive officer or other employee whose compensation is entirely by salary.

Sec. 8454.26. Annual Requirements: 1. Annually on or before the thirtieth day of April, or such day subsequent thereto as the

Commissioner upon request and for cause may specify, the following documents are required to be filed with the Commissioner:

(1) By each insurer:

- a. A true statement of its financial condition, transactions and affairs as at the immediately preceding thirty-first day of December, in general form and context as approved by the National Association of Insurance Commissioners plus any additional information required by the Commissioner, verified by oaths of at least two of the insurer's principal officers or the attorney-in-fact in the case of a reciprocal insurer or the United States manager in the case of an alien insurer. The statement of an alien insurer is required to relate only to its transactions and affairs in the United States. The Commissioner shall annually during November furnish each domestic insurer duplicate copies of annual statement forms required to be filed.
  - b. The tax statement provided for by section 8462.02.
  - c. In the event of a change in any of the other information which section 8454.11 requires an insurer to file with the Commissioner at the time of its application for a certificate of authority, the current information in the form stated in section 8454.11.
- (2) By each life insurer, the certificate of valuation provided for by section 8460.09.
- (3) By each foreign or alien insurer, a certificate from the proper public official of its state or country of domicile showing that it is duly authorized to transact the classes of insurance which it is transacting.
- (4) By each alien insurer, a certificate of the proper public official as to any deposit made or held as compliance with the provisions of this chapter.

2. The Commissioner may suspend or revoke the certificate of authority of any insurer which fails to file any of the documents to which paragraph one of this section relates.

Sec. 8454.27. Determination of Capital Funds of Alien Insurer:

1. The capital funds of an alien insurer shall be deemed to be the amount by which its assets exceed its liabilities with respect to its business transacted in the United States.
2. Assets of such insurer held in any state for the special protection of policyholders and obligees in such state shall not constitute assets of the insurer for the purpose of this chapter. Liabilities of the insurer so secured by such assets, but not exceeding the amount of such assets, may be deducted in computing the insurer's liabilities for the purpose of this section.

Sec. 8454.28. Accounts, Records: Every insurer shall keep full and adequate accounts and records of its assets, obligations, transactions and affairs.

Sec. 8454.29. Reinsurance upon Withdrawal: 1. No insurer other than a life insurer shall withdraw from this Territory until its

direct liability to its policyholders and obligees under all its insurance contracts then in force in this Territory has been assumed by another authorized insurer under an agreement approved by the Commissioner.

2. The assuming insurer shall within a reasonable time replace the assumed insurance contracts with its own, or by endorsement thereon acknowledge its liability thereunder.

3. An insurer desiring to withdraw from this Territory must first file an affidavit with the Commissioner showing that:

- (1) It desires to withdraw from this Territory, and to discontinue business in this Territory.
  - (2) All of its outstanding policies have been either reinsured or have expired, and if reinsured, file an affidavit by the reinsurer which must be an insurer authorized to carry on the business of insurance in this Territory, stating that it has reinsured all the outstanding policies of the withdrawing insurer upon risks in this Territory, or upon business originating in this Territory.
4. The insurer shall return for cancellation its current certificate of authority and licenses for general agents issued by the Commissioner.

5. An insurer desiring to withdraw from this Territory will, in addition to other requirements, publish in this Territory a notice of withdrawal once each week in four successive weeks, the last publication to be not less than twenty-one days after the first publication, in a newspaper of daily circulation. The notice of withdrawal as published must have the prior approval of the Commissioner.

Sec. 8454.30. Alien Reinsurers: No credit shall be allowed to any insurer, as an asset or as a deduction from liability, for reinsurance ceded to an alien insurer, other than under a contract of ocean marine insurance, covering a subject of insurance resident, located, or to be performed in this Territory unless the alien insurer:

- (1) Is authorized to transact insurance in a state of the United States, and
- (2) maintains an adequate guaranty deposit in a state of the United States for the protection of its insurance obligees in the United States, or
- (3) has an attorney-in-fact resident in the United States upon whom service of legal process may be made.

Sec. 8454.31. Membership in Mutual or Subscriber in Reciprocal Insurers: Any person may make application to enter into agreement for and hold policies or contracts in or with and be a member or subscriber of any domestic, foreign or alien mutual or reciprocal insurer. Any officer, representative or trustee, receiver or legal representative of any such member or policyholder, shall be recognized as acting for or on its behalf for the purpose of such contracts or membership, but shall not be personally liable upon such contract by reason of acting in such representative capacity.

#### ORGANIZATION OF DOMESTIC INSURERS

Sec. 8455.01. Types of Insurers Permitted: An insurer formed

in this Territory shall be either:

- (1) an incorporated stock insurer, or
  - (2) an incorporated mutual insurer on the advance cash premium plan (that is, where the insurer charges for and collects in advance cash premiums in amount adequate to maintain full legal reserves and fully to meet and discharge all of its obligations and liabilities under its policies without assessments or calls upon its members for additional premium, (except as provided in sections 8458.01 through 8458.30 relative to the contingent liability of its members), or
  - (3) a reciprocal insurer,
- with respective powers, duties and restrictions as provided in this chapter.

Sec. 8455.02. Solicitation Permit: 1. No person forming or proposing to form in this Territory an insurer, or insurance holding corporation, or stock corporation to finance an insurer or insurance production therefor, or corporation to manage an insurer, or corporation to be attorney-in-fact for a reciprocal insurer, or a syndicate for any of such purposes, shall advertise, or solicit or receive any funds, agreement, stock subscription, or membership on account thereof unless he has applied for and has received from the Commissioner a solicitation permit.

2. Any person violating this section shall be subject to a fine of not more than ten thousand dollars or imprisonment for not more than ten years, or by both fine and imprisonment.

Sec. 8455.03. Application for Solicitation Permit: To apply for a solicitation permit the person shall:

- (1) File with the Commissioner a request therefor showing:
  - a. name, type, and purpose of insurer, corporation or syndicate proposed to be formed;
  - b. names, addresses, and business records of each person associated or to be associated in the formation of the proposed insurer, corporation, or syndicate;
  - c. full disclosure of the terms of all understandings and agreements existing or proposed among persons so associated relative to the proposed insurer, corporation, or syndicate, or the formation thereof;
  - d. the plan according to which solicitations are to be made;
  - e. such additional information as the Commissioner may reasonably require.
- (2) File with the Commissioner:
  - a. original and two copies of proposed articles of incorporation, or syndicate agreement; or, if the proposed insurer is a reciprocal, original and duplicate of the proposed subscribers' agreement and power of attorney;
  - b. original and one copy of any proposed by-laws;
  - c. copy of any security proposed to be issued and copy of application or subscription agreement therefor;
  - d. copy of any insurance contract proposed to be offered and copy of application therefor;

- e. copy of any prospectus, advertising, or literature proposed to be used;
- f. copy of proposed form of any escrow agreement required.
- (3) Deposit with the Commissioner the appropriate fees required by this chapter.

Sec. 8455.04. Application Examined: The Commissioner shall expeditiously examine the application for a solicitation permit and make any investigation relative thereto deemed necessary. If the Commissioner finds that:

- (1) the application is complete; and
- (2) the documents therewith filed are equitable in terms and proper in form; and
- (3) the agreements made or proposed are equitable to present and future shareholders, subscribers, members or policyholders, he shall give notice to the applicant that he will issue a solicitation permit, stating the terms to be contained therein, upon the filing of the bond required by section 8455.10 of this chapter. If the Commissioner does not so find or if he finds that any of the persons named in the application as being associated or to be associated in the formation of the insurer, corporation or syndicate are untrustworthy, he shall give notice to the applicant that the permit will not be granted, stating the grounds therefor, and shall refund to the applicant all sums so deposited except the application fee.

Sec. 8455.05. Permit Issued: Upon the filing of the bond required by section 8455.10 after notice by the Commissioner, the applicant shall file the articles of incorporation of the proposed incorporated insurer or other corporation with the Treasury Department of this Territory, and upon presentation of evidence of such filing to the Commissioner the latter shall issue to the applicant a solicitation permit.

Sec. 8455.06. Expiration and Contents: Every solicitation permit issued by the Commissioner shall:

- (1) Expire two years from its date, unless earlier terminated by the Commissioner, and shall so state.
- (2) State the securities for which subscriptions are to be solicited, the number, classes, par value, and selling price thereof, or identify the insurance contract for which applications and advance premiums or deposits are to be solicited.
- (3) Limit the portion of funds received on account of stock or syndicate subscriptions, if any are proposed to be taken, which may be used for promotion and organization expenses to such amount as he deems adequate, but in no event to exceed fifteen per cent of such funds as and when actually received.
- (4) If to be a mutual or reciprocal insurer, limit the portion of funds received on account of applications for insurance which may be used for promotion or organization expenses to a reasonable commission upon such funds, giving consideration to the class or classes of insurance and policy or policies

involved and to the costs incurred by insurers generally in the production of similar business, and provide that no such commission shall be deemed to be earned nor be paid until the insurer has received its certificate of authority and the policies applied for and upon which such commission is to be based, have been actually issued and delivered.

- (5) Contain such other information required by sections 8455.01 through 8455.19, or reasonable conditions relative to accounting and reports or otherwise as the Commissioner deems necessary.

Sec. 8455.07. Permit not an Inducement: The granting of a solicitation permit is permissive only and shall not constitute an endorsement by the Commissioner of any person or thing related to the proposed insurer, corporation or syndicate and the existence of the permit shall not be advertised or used as an inducement in any solicitation. The substance of this section in bold-face type not less than ten-point shall be printed at the top of each solicitation permit.

Sec. 8455.08. Organization Solicitor's License: Solicitation for sale of securities to members of the public under a solicitation permit shall be made only by individuals registered therefor pursuant to the provisions of chapter 174, Revised Laws of Hawaii 1945, as amended.

Sec. 8455.09. Revocation: 1. The Commissioner may, for cause, modify a solicitation permit, or may, after a hearing, revoke any solicitation permit for violation of any provision of this chapter or of the terms of the permit, or of any proper order of the Commissioner, or for misrepresentation.

2. The Commissioner shall revoke a solicitation permit if requested in writing by a majority of the syndicate members, or by a majority of the incorporators and two-thirds of the subscribers to stock or applicants for insurance in the proposed incorporated insurer or corporation, or if he is so requested by a majority of the subscribers of a proposed reciprocal insurer.

Sec. 8455.10. Bond or Cash Deposit: 1. The Commissioner shall not issue a solicitation permit until the person applying therefor files with him a corporate surety bond in the penalty sum of twenty thousand dollars, in favor of this Territory and for the use and benefit of this Territory and of subscribers and creditors of the proposed organization. The bond shall be conditioned upon the payment of costs incurred by this Territory in event of any legal proceedings for liquidation or dissolution of the proposed organization before completion of organization or in event a certificate of authority is not granted; and upon a full accounting for funds received until the proposed insurer has been granted its certificate of authority, or until the proposed corporation or syndicate has completed its organization as defined in the solicitation permit.

2. In lieu of filing such bond, the person may deposit with the Treasurer of this Territory through the Commissioner twenty thousand dollars in cash or in United States Government bonds at par value, to be held in trust upon the same conditions as required for the bond.

3. The Commissioner may waive the requirement for a bond or deposit in lieu thereof if the permit provides that:

- (1) The proposed securities are to be distributed solely and finally to those few persons who are the active promoters intimate to the formation of the insurer, or other corporation or syndicate, or to the formation of the insurer, or other corporation or syndicate, or
- (2) the securities are to be issued in connection with subsequent financing as provided in section 8455.16, and distribution thereof is not to be made to the general public.

4. Any bond filed or deposit or remaining portion thereof held under this section shall be released and discharged upon settlement or termination of all liabilities against it.

Sec. 8455.11. Escrow of Funds: 1. All funds received pursuant to a solicitation permit shall be deposited and held in escrow in a bank or trust company under an agreement approved by the Commissioner. No part of any such deposit shall be withdrawn, except:

- (1) for the payment of promotion and organization expenses as authorized by the solicitation permit; or
  - (2) for the purpose of making any deposit with the Commissioner required for the issuance of a certificate of authority to an insurer; or
  - (3) if the proposed organization is not to be an insurer, upon completion of payments on stock or syndicate subscriptions made under the solicitation permit and deposit or appropriation of such funds to the purposes specified in the solicitation permit; or
  - (4) for making of refunds as provided in section 8455.15.
2. When the Commissioner has issued a certificate of authority to an insurer any such funds remaining in escrow for its account shall be released to the insurer.

Sec. 8455.12. Expense Pending Completion: 1. The incorporators of any insurer or other corporation, or the persons proposing to form a reciprocal insurer, or a syndicate, shall be jointly and severally liable for its debts or liabilities until it has secured a certificate of authority, if an insurer, or has completed its organization if a corporation other than an insurer or a syndicate.

2. Any portion of funds received on account of stock or syndicate subscriptions which is allowed therefor under the solicitation permit, may be applied concurrently toward the payment of promotion and organization expense theretofore incurred.

Sec. 8455.13. Stock Issued - Forfeiture: 1. No such proposed stock insurer, corporation, or syndicate shall issue any share of stock or participation agreement except for payment in cash or in securities eligible for investment of funds of insurers, or, after securing the written approval of the Commissioner, in other property. No such shares or agreement shall be issued until all subscriptions received under the solicitation permit have been so fully paid, nor, if an insurer, until a certificate of authority has been issued to it.

2. Every subscription contract to shares of a stock insurer or other

corporation calling for payment in installments, together with all amounts paid thereon may be forfeited at the option of the corporation, upon failure to make good a delinquency in any installment upon not less than forty-five days' notice in writing, and every contract shall so provide.

Sec. 8455.14. Insurance Application: All applications for insurance obtained in forming a mutual or reciprocal insurer shall provide that:

- (1) issuance of the policy is contingent upon completion of organization of the insurer and issuance to it of a certificate of authority; and
- (2) the prepaid premium or deposit will be refunded in full to the applicant if the organization is not completed and certificate of authority issued prior to the solicitation permit's date of expiration; and
- (3) the agreement for insurance is not effective until a policy has been issued under it.

Sec. 8455.15. Failure to Complete or Qualify. The Commissioner shall withdraw all funds held in escrow and refund to subscribers or applicants all sums paid in on stock or syndicate subscriptions, less that part of such sums paid in on subscriptions as has been allowed and used for promotion and organization expenses, and all sums paid in on insurance applications, and shall dissolve the proposed insurer, corporation or syndicate if:

- (1) the proposed insurer, corporation or syndicate fails to complete its organization and obtain full payment for subscriptions and applications, and, if an insurer, it fails to secure its certificate of authority, all before expiration of the solicitation permit; or
- (2) the Commissioner revokes the solicitation permit.

Sec. 8455.16. Subsequent Financing: 1. No domestic insurer, or insurance holding corporation, or stock corporation for financing operations of a mutual insurer, or attorney-in-fact corporation of a reciprocal insurer, after:

- (1) it has received a certificate of authority, if an insurer, or
- (2) it has completed its initial organization and financing if a corporation other than an insurer,

shall solicit or receive funds in exchange for any new issue of its corporate securities, other than through a stock dividend, until it has applied to the Commissioner for, and has been granted, a solicitation permit.

2. The Commissioner shall issue such a permit unless he finds that:

- (1) the funds proposed to be secured are excessive in amount for the purpose intended, or
- (2) the proposed securities or the manner of their distribution are inequitable, or
- (3) the issuance of the securities would jeopardize the interests of policyholders or the holders of other securities of the insurer or corporation.



3. Any such solicitation permit granted by the Commissioner shall contain such terms and be issued upon such conditions as the Commissioner may reasonably specify or require, and shall expire when the new issue of corporate securities has been completed.

Sec. 8455.17. False Exhibits: Every person who, with intent to deceive knowingly exhibits any false account, or document, or advertisement, relative to the affairs of any insurer, or of any corporation or syndicate of the kind enumerated in section 8455.02, formed or proposed to be formed, is punishable in accordance with the provisions of section 8451.18.

Sec. 8455.18. Articles of Incorporation: 1 This section applies to insurers hereafter incorporated in this Territory.

2. The incorporators shall be individuals who are United States citizens, and a majority of them shall be residents of this Territory. The number of incorporators shall be not less than five if a stock insurer, nor less than ten if a mutual insurer.

3. The incorporators shall execute the articles of incorporation in triplicate and acknowledge their signatures before an officer authorized to take acknowledgments of deeds.

4. After the articles of incorporation have been approved by the Treasurer and by the Commissioner, the original shall be filed in the Treasury Department of this Territory, one copy in the Bureau, and one copy shall be retained by the insurer.

5. The articles of incorporation shall state:

- (1) The name of the insurer, which shall include the word Insurance and, as the last word thereof, the word Limited or the abbreviation Ltd. If a mutual insurer, the name shall include the word Mutual.
- (2)
  - a. The objects for which the insurer is formed;
  - b. Whether it is a stock or mutual insurer;
  - c. The classes of insurance it will issue, according to the designations made in this chapter.
- (3) The place of its principal office, which shall be in this Territory.
- (4) If a stock insurer, the amount of its capital, the aggregate number of shares, and the par value of each share, which par value shall not be less than ten dollars; if the privilege of subsequent extension of the authorized capital stock is sought, then the limit of such extension shall be stated; if a mutual insurer, the maximum contingent liability of its policyholders for the payment of its expenses and losses occurring under its policies.
- (5) The duration of its existence, which may be perpetual.
- (6) The names and addresses, both business and residence, of:
  - a. The individuals who shall constitute the Board of Directors of the insurer for the initial term;
  - b. The officers of the insurer for the initial term; and
  - c. The incorporators.

- (7) Other provisions, not inconsistent with law, as may be deemed proper by the incorporators.

Sec. 8455.19. Affidavit: 1. Before applying to the Commissioner for an initial certificate of authority, an insurer is required to file in the office of the Treasurer of this Territory an affidavit, sworn to by the president, secretary, and treasurer of the corporation as named in the articles of incorporation.

2. The affidavit shall set forth:

- (1) The number of shares which the corporation is authorized to issue;
- (2) The par value of the shares;
- (3) The names of the shareholders;
- (4) The number of shares owned by each shareholder;
- (5) The amount of money paid to the corporation by each shareholder; and
- (6) That the required capital has been paid in full in cash.

### DOMESTIC INSURERS - POWERS

Sec. 8456.01. Existing Insurers: Existing authorized domestic insurers shall continue to insure only in accordance with the provisions of this chapter.

Sec. 8456.02. Principal Offices: Every domestic insurer shall establish and maintain in this Territory its principal office.

Sec. 8456.03. Corporation Law Applies in General: The laws of this Territory relating to private corporations, except where inconsistent with the express provisions of this chapter, shall apply to incorporated domestic insurers.

Sec. 8456.04. Board of Directors: The Board of Directors of a domestic insurer shall consist of not less than five individuals, three-fourths thereof shall be United States citizens, and a majority thereof shall be residents of this Territory.

Sec. 8456.05. Corrupt Practices: No person shall buy or sell or barter a vote or proxy, relative to any meeting of shareholders or members of an incorporated domestic insurer, or engage in any corrupt or dishonest practice in or relative to the conduct of any such meeting.

Sec. 8456.06. Prohibited Guaranty: No domestic insurer or its affiliates or subsidiaries shall guarantee the financial obligation of any director or officer of such insurer or affiliate or subsidiary in his personal capacity, and any such guaranty attempted shall be void. This prohibition shall not apply to obligations of the insurer under surety bonds or insurance contracts issued in the regular course of business.

Sec. 8456.07. Depositaries: The funds of a domestic insurer shall not be deposited in any bank or banking institution which has not first been approved as a depository by the insurer's board of directors or by a committee thereof designated for the purpose.

Sec. 8456.08. Fees on Use of Funds: 1. No director, officer, or employee having any authority in the investment or disposition of

the funds of a domestic insurer shall accept, except on behalf of the insurer, or be the beneficiary of any fee, brokerage, gift, or other emolument because of any investment, loan, deposit, purchase, sale, payment, or exchange made by or for the insurer.

2. The Commissioner may, by regulations from time to time, define and permit additional exceptions to the prohibition contained in paragraph one of this section solely to enable payment of reasonable compensation to a director who is not otherwise an officer or employee of the insurer, for necessary services performed or sales or purchases made to or for the insurer in the ordinary course of the insurer's business and in the usual private professional or business capacity of such director.

Sec. 8456.09. Comply with Foreign Laws: Any domestic insurer doing business in a state, territory or sovereignty may design and issue insurance contracts and transact insurance in such state, territory or sovereignty as required or permitted by the laws thereof.

Sec. 8456.10. Solicitation in Other States: 1. No domestic insurer shall knowingly solicit insurance business in any reciprocating state in which it is not then licensed as an authorized insurer.

2. This section shall not prohibit advertising through publications and radio broadcasts originating outside such reciprocating state, if the insurer is licensed in a majority of the states in which such advertising is disseminated, and if such advertising is not specially directed to residents of such reciprocating state.

3. This section shall not prohibit insurance, covering persons or risks located in a reciprocating state, under contracts solicited and issued in states in which the insurer is then licensed. Nor shall it prohibit insurance effectuated by the insurer as an unauthorized insurer in accordance with the laws of the reciprocating state.

4. A reciprocating state, as used herein, is one under the laws of which a similar prohibition is imposed upon and is enforced against insurers domiciled in that state.

5. The Commissioner may suspend or revoke the certificate of authority of a domestic insurer found by him, after a hearing, to have violated this section.

### DOMESTIC STOCK INSURERS

Sec. 8457.01. Increase of Capital: 1. A domestic stock insurer may increase its capital stock by:

- (1) Complying with the provisions of section 8329, except the provisions of subsection (4) thereof; and
- (2) Within a period prescribed by the Commissioner after the filing of the certificate required by section 8329, filing a certificate, executed in the same manner as the section 8329 certificate, that the increased capital has been paid in full in cash. The increase in capital is effective upon the filing of the certificate that the increased capital has been paid in full in cash.

2. If the increased capital stock is to be distributed, as stock dividend, such increased capital stock may be fully paid in out of any

available surplus funds as is provided in section 8457.03, and such payment shall be effected by a transfer on the insurer's books from its surplus account to its capital account.

Sec. 8457.02. Decrease of Capital: 1. A domestic stock insurer may decrease its capital stock by:

- (1) Vote of not less than seventy-five per cent of the holders of the shares of stock outstanding and entitled to vote; and
  - (2) Filing a certificate, executed in the same manner as the section 8329 certificate, that such vote occurred, upon which filing the decrease in capital is effective.
2. No such decrease shall be made which results in capital stock less in amount than the minimum required by this chapter for the classes of insurance thereafter to be transacted by the insurer.
3. No surplus funds of the insurer resulting from a decrease of its capital stock shall be distributed to shareholders, except as a stock dividend on a subsequent increase of capital stock, or upon dissolution of the insurer, or upon approval of the Commissioner upon proof satisfactory to him that the distribution will not impair the interests of policyholders or the solvency of the insurer.
4. Upon a decrease of capital stock, the insurer's directors shall call in any outstanding stock certificates required to be changed pursuant thereto and shall issue proper certificates in their stead.

Sec. 8457.03. Dividends to Stockholders: 1. No domestic stock insurer shall pay any cash dividend to stockholders except out of that part of its available surplus funds which is derived from any realized net profits.

2. Such an insurer may pay a stock dividend out of any available surplus funds.

3. No dividend shall be declared or paid which would reduce the insurer's surplus to an amount less than the minimum required for the classes of insurance thereafter to be transacted.

4. For the purpose of sections 8457.01 through 8457.08 surplus funds means the excess of the insurer's assets over its liabilities, including its capital stock as a liability.

5. Available surplus means the excess over the minimum amount of surplus required for the classes of insurance the insurer is authorized to transact.

6. The Commissioner may revoke the certificate of authority of any insurer violating the provisions of this section.

Sec. 8457.04. Illegal Dividends, Reductions: Any director of a domestic stock insurer who votes for or concurs in the declaration or payment of any dividend to stockholders or a reduction of capital stock not authorized by law shall in addition to any other liability imposed by law, be guilty of violation of this chapter.

Sec. 8457.05. Capital Impaired: 1. If the assets of a domestic stock insurer at any time are less than its liabilities, including its capital stock as a liability, the insurer's capital stock shall be deemed to be impaired, and the Commissioner shall at once determine the amount of the deficiency and serve notice upon the insurer to cure the deficiency within ninety days after service of such notice.

2. The insurer may cure the deficiency by assessment of stockholders by action of its board of directors or by other lawful means. The deficiency shall be made good in cash, or in assets eligible under this chapter for the investment of the insurer's funds, or by reduction of the insurer's capital stock to an amount not below the minimum required by either sections 8454.07, 8454.08 or 8454.10 for the classes of insurance to be thereafter transacted.

3. If the deficiency is not cured and proof thereof filed with the Commissioner within such ninety-day period, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this chapter.

4. Shares as to which such an assessment, made pursuant to this section, is not paid within sixty days after demand, shall be forfeitable and may be cancelled by vote of the directors and new shares issued to make up the deficiency.

5. If the deficiency is not cured the insurer shall not issue or deliver any policy after the expiration of such ninety-day period. Any officer or director who violates or knowingly permits the violation of this provision shall be subject to a fine of not less than one hundred dollars or more than one thousand dollars for each violation.

Sec. 8457.06. Repayment of Contributed Surplus: Contributions to the surplus of a domestic stock insurer other than resulting from sale of its capital stock, shall not be subject to repayment except out of surplus in excess of the minimum surplus initially required of such an insurer transacting like classes of insurance.

Sec. 8457.07. Participating Policies: 1. Any domestic stock insurer may, if its charter so provides, issue policies entitled to participate from time to time in the earnings of the insurer through dividends.

2. The directors of a stock insurer may from time to time apportion and pay to the holders of participating policies dividends only out of that part of its surplus which is in excess of its required capital and minimum surplus. Such dividends may be paid or credited according to a reasonable classification of its policies. No dividend shall be paid which unfairly discriminates between policies within the same classification.

3. No such insurer shall issue in this Territory both participating and non-participating policies for the same class of risks, unless the right or absence of right to participate is reasonably related to the premium charge or the special character of the risk assumed.

4. Dividends to participating life insurance policies issued by such insurer shall be paid only out of its surplus funds as defined in paragraph four of section 8457.03. Dividends to participating policies for other classes of insurance shall be paid only out of that part of such surplus funds which is derived from any realized net profits.

5. No dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy.

Sec. 8457.08. Mutualization of Stock Insurers: 1. Any domestic stock insurer may become a domestic mutual insurer pursuant to such plan and procedure as are approved by the Commissioner in advance of such mutualization.

2. The Commissioner shall not approve any such plan, procedure or mutualization unless:

- (1) It is equitable to both shareholders and policyholders.
- (2) It is approved by vote of the holders of not less than three-fourths of the insurer's capital stock having voting rights, and by vote of not less than two-thirds of the insurer's policyholders who vote on such plan, pursuant to such notice and procedure as may be approved by the Commissioner. Such vote may be registered in person, by proxy, or by mail.
- (3) If a life insurer, the right to vote thereon is limited to those policyholders whose policies have face amounts of not less than one thousand dollars and have been in force one year or more.
- (4) Mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair value thereof as determined by competent disinterested appraisers.
- (5) The plan provides for appraisal and purchase of the shares of any non-consenting stockholder in accordance with the laws of this Territory relating to the sale or exchange of all the assets of a private corporation.
- (6) The plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective.
- (7) The mutualization leaves the insurer with surplus funds reasonably adequate to preserve the security of its policyholders and its ability to continue successfully in business in the states in which it is then authorized, and in the classes of insurance it is then authorized to transact.

### DOMESTIC MUTUAL INSURERS

Sec. 8458.01. Initial Qualification, Mutual Insurers:

1. The Commissioner shall not issue a certificate of authority to a domestic mutual insurer unless it has fully qualified therefor under this chapter and unless it has met the minimum requirements for the classes of insurance it proposes to transact as provided in this chapter.
2. All applications for insurance submitted by such an insurer as fulfilling qualification requirements shall be bona fide applications from persons resident in this Territory covering lives, property, or risks resident or located in this Territory.
3. All qualifying premiums collected and initial surplus funds of such an insurer shall be in cash.

Sec. 8458.02. Mutual Property Insurer: 1. When applying for a certificate of authority a domestic mutual property insurer must:

- (1) have applications from at least one hundred persons for insurance covering at least two hundred and fifty non-adjacent properties, for insurance aggregating not less than five hundred thousand dollars; and
- (2) have collected from each applicant the proper premium at a rate not less than a rate promulgated by a licensed rating organization for a term of at least one year; and

- (3) have a surplus over all liabilities, as at completion of issuance of the insurance contracts so applied for, amounting to not less than one hundred thousand dollars.
  - (4) The maximum of any single risk proposed to be assumed by the insurer shall not exceed ten per cent of its surplus. Any reinsurance taking effect simultaneously with the policy shall be deducted in determining the amount at risk for purposes of this provision.
2. In lieu of such applications, premiums, and surplus, it is required to have a surplus amounting to not less than two hundred thousand dollars over all liabilities.

Sec. 8458.03. Mutual Casualty Insurer: 1. When applying for a certificate of authority a domestic mutual insurer proposing to transact casualty insurance, including vehicle insurance, must:

- (1) have applications for such insurance in a reasonable amount from at least two hundred and fifty persons covering not less than five hundred separate risks; and
  - (2) have collected from each applicant the proper premium for a term of not less than one year at a rate filed with and approved by the Commissioner; and
  - (3) have a surplus over all liabilities, as at completion of issuance of the insurance contracts so applied for, amounting to not less than one hundred and fifty thousand dollars.
2. In lieu of such applications, premiums, and surplus, it is required to have a surplus amounting to not less than three hundred thousand dollars over all liabilities.

Sec. 8458.04. Mutual Vehicle Insurer: 1. When applying for a certificate of authority, a domestic mutual insurer formed to transact vehicle insurance must:

- (1) have applications from at least two hundred persons for insurance covering at least five hundred separate vehicles, for a maximum of retained liability not in excess of ten thousand dollars for any one accident or other liability; and
  - (2) have collected from each applicant the proper premium for insurance for one year according to its schedule of premium rates approved by the Commissioner; and
  - (3) have a surplus over all liabilities, as at completion of issuance of the insurance contracts so applied for, amounting to not less than one hundred thousand dollars.
2. In lieu of such applications, premiums, and surplus, it is required to have a surplus amounting to not less than two hundred thousand dollars over all liabilities.

Sec. 8458.05. Mutual Life Insurer: 1. When applying for a certificate of authority a domestic mutual life insurer must:

- (1) have at least five hundred applications for life insurance, other than on the term plan for term of ten years or less, covering at least five hundred separate insurable lives on an individual basis for a maximum insurance of not less than two million dollars; and
- (2) have collected from each applicant the proper annual pre-

- mium for one year, and have so received from all applicants premiums aggregating at least fifty thousand dollars; and
- (3) have a surplus over all liabilities, as at completion of issuance of the insurance contracts so applied for, amounting to not less than one hundred thousand dollars.

2. In lieu of such applications, premiums, and surplus, it is required to have a surplus amounting to not less than two hundred thousand dollars over all liabilities.

Sec. 8458.06. Mutual Disability Insurer: 1. When applying for a certificate of authority a domestic mutual disability insurer must:

- (1) have at least five hundred applications from at least five hundred persons for individual disability insurance providing not more than one thousand dollars of accidental death benefit and not more than twenty-five dollars of weekly indemnity for each applicant; and
- (2) have collected from each applicant the proper premium for one year and have so received from all applicants premiums aggregating at least ten thousand dollars; and
- (3) have a surplus over all liabilities, as at completion of issuance of the insurance contracts so applied for, amounting to not less than fifty thousand dollars.

2. In lieu of such applications, premiums, and surplus, it is required to have a surplus amounting to not less than one hundred thousand dollars over all liabilities.

Sec. 8458.07. Minimum Surplus: A domestic mutual insurer shall at all times have and maintain surplus representing the excess of its assets over its liabilities, in amount not less than the larger of the aggregate of:

- (1) the amount of any surplus required to qualify for its original certificate of authority, and
- (2) the amount of any additional surplus required of it pursuant to section 8454.10 for authority to transact additional classes of insurance, or
- (3) if authorized to transact a combination of classes of insurance shall at all times have and maintain surplus funds in amount not less than the amount of paid-in capital stock of a domestic insurer, authorized to transact the same combination of classes of insurance.

Sec. 8458.08. Membership: Each holder of one or more insurance contracts issued by a domestic mutual insurer, other than a contract of reinsurance, is a member of the insurer, with the rights and obligations of such membership, and each insurance contract so issued shall effectively so stipulate.

Sec. 8458.09. Rights of Members: 1. A domestic mutual insurer is owned by and shall be operated in the interest of its members.

2. Each member is entitled to one vote in the election of directors and on matters coming before corporate meetings of members, subject to such reasonable minimum requirements as to duration of membership and amount of insurance held as may be made in the insurer's by-laws. The person named as the policyholder in any



group insurance policy issued by such insurer shall be deemed the member, and shall have but one such vote regardless of the number of individuals insured by such policy.

3. With respect to the management, records, and affairs of the insurer, a member shall have the same character of rights and relationship as a stockholder has toward a domestic stock insurer.

Sec. 8458.10. By-Laws: A domestic mutual insurer shall adopt by-laws for the conduct of its affairs. The by-laws, or any modification thereof, shall forthwith be filed with the Commissioner. The Commissioner shall disapprove any such by-laws, or as so modified, if he finds after a hearing thereon, that it is not in compliance with the laws of this Territory, or that it unreasonably interferes with the rights of members or exercise of such rights, and he shall forthwith communicate such disapproval to the insurer. No such by-laws, or modification, so disapproved shall be effective during the existence of such disapproval.

Sec. 8458.11. Notice of Annual Meetings: 1. Notice of the time and place of the annual meeting of members of a domestic mutual insurer shall be given by imprinting such notice plainly on the policies issued by the insurer.

2. Any change of the date or place of the annual meeting shall be made only at an annual meeting of members. Notice of such change may be given:

- (1) by imprinting such new date or place on all policies which will be in effect as of the date of such changed meeting; or
- (2) unless the Commissioner otherwise orders, notice of the new date or place need be given only through policies issued after the date of the annual meeting at which such change was made and in or attached to premium notices and renewal certificates issued during the twenty-four months immediately following such meeting.

Sec. 8458.12. Members' Proxies: 1. A member of a domestic mutual insurer may vote in person or by proxy given another member on any matter coming before a corporate meeting of members.

2. No such proxy shall be valid beyond the earlier of the following dates:

- (1) the date of expiration set forth in the proxy; or
- (2) the date of termination of membership; or
- (3) five years from the date of execution of the proxy.

3. No member's vote upon any proposal to divest the insurer of its business and assets, or the major part thereof, shall be registered or taken except in person or by a proxy newly executed and specific as to the matter to be voted upon.

Sec. 8458.13. Directors: No individual shall be a director of a domestic mutual insurer by reason of his holding public office (i.e. ex officio). Adjudication as a bankrupt or taking the benefit of any insolvency law or making a general assignment for the benefit of creditors disqualifies an individual from being or acting as a director.

Sec. 8458.14. Expenses, Property and Casualty: For any calendar year after its first two full calendar years of operation, no domestic

mutual insurer, other than one issuing nonassessable policies, shall incur any costs or expense in the writing or administration of property, disability, and casualty insurances (other than boiler and machinery or elevator) transacted by it which, exclusive of losses paid, loss adjustment expenses, investment expenses, dividends, and taxes exceeds the sum of:

- (1) forty per cent of the net premium income during that year after deducting therefrom net earned reinsurance premiums for such year, plus
- (2) all of the reinsurance commissions received on reinsurance ceded by it.

Sec. 8458.15. Violation of Expense Limitations: The officers and directors of an insurer violating section 8458.14 shall be jointly and severally liable to the insurer for any excess of expenses incurred. If the insurer fails to exercise reasonable diligence or refuses to enforce such liability, the Commissioner may prosecute action thereon for the benefit of the insurer. Such failure or refusal constitutes grounds for revocation of the insurer's certificate of authority.

Sec. 8458.16. Actions on Officers' Salaries: No action to recover, or on account of, any salary or other compensation due or claimed to be due any officer or director of a domestic mutual insurer, or on any note or agreement relative thereto, shall be brought against such insurer after twelve months after the date on which such salary or compensation, or any installment thereof, first accrued.

Sec. 8458.17. Contingent Liability of Members: 1. Each member of a domestic mutual insurer, except as otherwise provided in sections 8458.01 through 8458.30, shall have a contingent liability, pro rata and not one for another, for the discharge of its obligations. The contingent liability shall be in such maximum amount as is stated in the insurer's articles of incorporation, but shall be not less than one, nor more than five, additional premiums for the member's policy at the annual premium rate and for a term of one year.

2. Every policy issued by the insurer shall contain a statement of the contingent liability.

3. Termination of the policy of any such member shall not relieve the member of contingent liability for his proportion of the obligations of the insurer which accrued while the policy was in force.

Sec. 8458.18. Accrual of Liability: 1. If at any time the assets of a domestic mutual insurer are less than its liabilities and the minimum surplus, if any, required of it by this chapter as prerequisite for continuance of its certificate of authority, and the deficiency is not cured from other sources, its directors may, if approved by the Commissioner, make an assessment only on its members who at any time within the twelve months immediately preceding the date such assessment was authorized by its directors held policies providing for contingent liability.

2. Such an assessment shall be for such an amount of money as is required in the opinion of the Commissioner, to render the insurer fully solvent, and provide a reasonable amount of working capital above such minimum amount of surplus, but such working capital

so provided shall not exceed five per cent of the insurer's liabilities as of the date on which the amount of deficiency was determined.

3. A member's proportionate part of any such assessment shall be computed by applying to the premium earned within such twelve-month period on his contingently liable policy or policies the ratio of the total assessment to the total premium earned during such period on all contingently liable policies which are subject to the assessment.

4. No member shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Sec. 8458.19. **Contingent Liability as Asset:** Any contingent liability to assessment of members of a domestic mutual insurer does not constitute an asset of the insurer in any determination of its financial condition.

Sec. 8458.20. **Lien on Reserves:** As to life insurance, any portion of an assessment of contingent liability upon a policyholder which remains unpaid following notice of such assessment, demand for payment, and lapse of a reasonable waiting period as specified in such notice, may, if approved by the Commissioner, be secured by placing a lien on the reserves held by the insurer to the credit of such policyholder.

Sec. 8458.21. **Nonassessable Policies:** 1. A domestic mutual insurer, after it has established a surplus not less in amount than the minimum capital funds required of a domestic stock insurer to transact like classes of insurance may extinguish the contingent liability of its members to assessment and omit provisions imposing contingent liability in all policies currently issued.

2. When the surplus has been so established and the Commissioner has so ascertained, he shall issue to the insurer, at its request, his certificate authorizing the extinguishment of the contingent liability of its members and the issuance of policies free therefrom.

3. While it maintains surplus funds in amount not less than the minimum paid-up capital stock and surplus required of a domestic stock insurer authorized to transact like classes of insurance, a foreign or alien mutual insurer may, if consistent with its charter and the laws of its domicile, issue nonassessable policies covering subjects located, resident, or to be performed in this Territory.

Sec. 8458.22. **Applies to All Policies:** The Commissioner shall not authorize a domestic mutual insurer so to extinguish the contingent liability of any of its members or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its members and in all such policies for all classes of insurance transacted by it. Except, that if required by the laws of another state in which such an insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its members as may acquire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

Sec. 8458.23. **Revocation of Authority:** 1. The Commissioner

shall revoke the authority of a domestic mutual insurer so to extinguish the contingent liability of its members if:

(1) at any time the insurer's assets are less than the sum of its liabilities and the surplus required for such authority, or

(2) the insurer, by resolution of its directors approved by its members, requests that the authority be revoked.

2. Upon revocation of such authority for any cause, the insurer shall not thereafter issue any policies without contingent liability, nor renew any policies then in force without written endorsement thereon providing for contingent liability.

Sec. 8458.24. Dividends: 1. The directors of a domestic mutual insurer may from time to time apportion and pay to its members dividends only out of that part of its surplus which is in excess of its required minimum surplus.

2. Such dividends shall be paid or credited to policyholders according to such reasonable classification of its policies as the directors may in their discretion from time to time establish. No dividend shall be paid which unfairly discriminates between policies within the same classification.

3. No dividend, otherwise earned, shall be made contingent upon the payment of renewal premium on any policy.

Sec. 8458.25. Non-Participating Policies: 1. If its by-laws so provide, a domestic mutual insurer may issue policies not entitled to participate in the insurer's savings and earnings, **provided** it is authorized to issue policies without contingent liability to assessment.

2. Such insurer shall not issue in this Territory both participating and non-participating policies for the same class of risks, unless the right or absence of right to participate is reasonably related to the premium charge or the special character of the risks assumed.

Sec. 8458.26. Borrowed Capital: 1. A domestic mutual insurer may, with the Commissioner's advance approval and without the pledge of any of its assets, borrow money to defray the expenses of its organization or for any purpose required by its business, upon an agreement that such money and such interest thereon as may be agreed upon, but not exceeding six per cent per annum, shall be repaid only out of the insurer's earned surplus in excess of its required minimum surplus.

2. Any money so borrowed shall not form a part of the insurer's legal liabilities or be the basis of any set-off; but until repaid, financial statements filed or published by the insurer shall show as a footnote thereto the amount thereof then unpaid together with interest thereon accrued but unpaid.

3. The Commissioner's approval of such loan, if granted, shall specify the amount to be borrowed, the purpose for which the money is to be used, the terms and form of the loan agreement, the date by which the loan must be completed, and such other related matters as the Commissioner shall deem proper. If the money is to be borrowed upon multiple agreements, the agreements shall be serially numbered. No loan agreement or series thereof shall have or be given any preferential rights over any other such loan agreement or

series. No commission or promotional expense shall be incurred or be paid on account of any such loan.

Sec. 8458.27. Repayment of Borrowed Capital: 1. The insurer may repay any loan received pursuant to section 8458.26, or any part thereof as approved by the Commissioner, only out of its funds which represent such loan or realized net earned surplus. No repayment shall be made which reduces the insurer's surplus below the minimum surplus required for the classes of insurance transacted. 2. The insurer shall repay any such loan or the largest possible part thereof when the purposes for which such funds were borrowed have been fulfilled and when the insurer's surplus is adequate to repay without unreasonable impairment of the insurer's operations.

3. No repayment of such loan shall be made unless approved by the Commissioner. The insurer shall notify the Commissioner in writing not less than sixty days in advance of its intention to repay such loan or any part thereof, and the Commissioner shall forthwith ascertain whether the insurer's financial condition is such that the repayment can properly be made.

4. Upon dissolution and liquidation of the insurer, after the retirement of all its other outstanding obligations the holders of any such loan agreements then remaining unpaid shall be entitled to payment before any distribution of surplus is made to the insurer's members.

Sec. 8458.28. Impairment of Surplus: 1. If the assets of a domestic mutual insurer are less than its liabilities, plus the amount of any surplus required by this chapter for the classes of insurance authorized to be transacted, the insurer's surplus shall be deemed to be impaired and the Commissioner shall at once ascertain the amount of the deficiency and serve notice upon the insurer to cure the deficiency within ninety days after such service of notice.

2. If the deficiency is not made good in cash or in assets eligible under this chapter for the investment of the insurer's funds, and proof thereof filed with the Commissioner within such ninety-day period, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this chapter.

3. If the deficiency is not made good the insurer shall not issue or deliver any policy after the expiration of such ninety-day period. Any officer or director who violates or knowingly permits the violating of this provision shall be subject to a fine of not less than one hundred dollars or more than one thousand dollars for each violation.

Sec. 8458.29. Conversion or Reinsurance: 1. No domestic mutual insurer shall hereafter be converted, changed, or reorganized as a stock corporation.

2. Such an insurer may be wholly reinsured in and its assets transferred to and its liabilities assumed by another mutual or stock insurer under such terms and conditions as are approved by the Commissioner in advance of such reinsurance.

3. The Commissioner shall not approve any such reinsurance agreement which does not determine the amount of and make adequate provision for paying to policyholders of such mutual insurer, reasonable compensation for their equities as owners of such insurer, such

compensation to be apportioned to policyholders as identified and in the manner prescribed in section 8458.30.

Sec. 8458.30. Members' Share of Assets: 1. Upon the liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness and policy obligations shall be distributed to its members who were such within the thirty-six months prior to the last termination of its certificate of authority.

2. The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his membership, bear to the aggregate of all premiums so earned on the policies of all such members. If a life insurer, the insurer shall make a reasonable classification of its life insurance policies so held by such members and a formula based upon such classification for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the Commissioner's approval.

### DOMESTIC RECIPROCAL INSURERS

Sec. 8459.01. Reciprocal Insurance Defined: Reciprocal insurance is that resulting from an inter-exchange among persons, known as subscribers, of reciprocal agreements of indemnity, the inter-exchange being effectuated through an attorney-in-fact common to all such persons.

Sec. 8459.02. Reciprocal Insurer Defined: A reciprocal insurer means an unincorporated aggregation of subscribers operating individually and collectively through an attorney-in-fact to provide reciprocal insurance among themselves.

Sec. 8459.03. Scope of Sections 8459.01 through 8459.31: All authorized reciprocal insurers shall be governed by those provisions of sections 8459.01 through 8459.31 not expressly made applicable to domestic reciprocal insurers.

Sec. 8459.04. Insuring Powers of Reciprocals: 1. A reciprocal insurer may, upon qualifying therefor as provided by this chapter, transact any class or classes of insurance defined by this chapter, other than life or disability insurance.

2. A reciprocal insurer may purchase reinsurance upon the risk of any subscriber, and may grant reinsurance as to any class of insurance which it is authorized to transact direct.

Sec. 8459.05. Name, Suits: A reciprocal insurer shall:

- (1) Have and use a business name. The name shall include the word reciprocal, or inter-insurer, or inter-insurance, or exchange, or underwriters, or underwriting.
- (2) Sue and be sued in its own name.

Sec. 8459.06. Surplus Required: A domestic reciprocal insurer hereafter formed, if it has otherwise complied with the provisions of this chapter, may be authorized to transact insurance if it possesses surplus of not less than two hundred thousand dollars over all liabilities.

Sec. 8459.07. Attorney: Attorney as used in sections 8459.01

through 8459.31 refers to the attorney-in-fact of a reciprocal insurer. The attorney may be an individual, partnership, or corporation.

Sec. 8459.08. Organization of Reciprocal Insurer: 1. Twenty-five or more persons domiciled in this Territory may organize a domestic reciprocal insurer and in compliance with this chapter make application to the Commissioner for a certificate of authority to transact insurance.

2. When applying for a certificate of authority, the original subscribers and the proposed attorney shall fulfill the requirements of and shall execute and file with the Commissioner a declaration setting forth:

- (1) the name of the insurer;
- (2) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this Territory;
- (3) the classes of insurance proposed to be transacted;
- (4) the names and addresses of the original subscribers;
- (5) the designation and appointment of the proposed attorney and a copy of the power of attorney;
- (6) the names and addresses of the officers and directors of the attorney, if a corporation, or of its members, if a partnership;
- (7) the powers of the subscribers' advisory committee and the names and terms of office of the members thereof;
- (8) that all moneys paid to the reciprocal, after deducting therefrom any sum payable to the attorney, shall be held in the name of the insurer and for the purposes specified in the subscribers' agreement;
- (9) a copy of the subscribers' agreement;
- (10) a statement that each of the original subscribers has in good faith applied for insurance of the class proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than twelve months at the rate theretofore filed with and approved by the Commissioner;
- (11) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by section 8459.06 is on hand;
- (12) a copy of each policy, endorsement, and application form it then proposes to issue or use.

3. Such declaration shall be acknowledged by each such subscriber and by the attorney in the manner required for the acknowledgment of deeds to real estate.

Sec. 8459.09. Policies Effective: Any policy applied for by an original subscriber shall become effective coincidentally with the issuance of a certificate of authority to the reciprocal insurer.

Sec. 8459.10. Certificate of Authority: 1. The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

2. The Commissioner may refuse, suspend, or revoke the certificate of authority, in addition to other grounds therefor, for failure of its

attorney to comply with any provision of this chapter.

Sec. 8459.11. Power of Attorney: 1. The rights and powers of the attorney of a reciprocal insurer shall be as provided in the power of attorney given it by the subscribers.

2. The power of attorney must set forth:

- (1) the powers, duties and compensation of the attorney;
- (2) that the attorney is empowered to accept service of process on behalf of the insurer and to authorize the Commissioner to receive service of process in actions against the insurer upon contracts exchanged;

(3) except as to nonassessable policies, a provision for contingent several liability of each subscriber in a specified amount, which amount shall be not less than one nor more than ten times the premium or premium deposit stated in the policy.

3. The power of attorney may:

- (1) provide for the right of substitution of the attorney and revocation of the power of attorney and rights thereunder;
- (2) impose such restrictions upon the exercise of the power as are agreed upon by the subscribers;
- (3) provide for the exercise of any right reserved to the subscribers directly or through their advisory committee;
- (4) contain other lawful provisions deemed advisable.

4. The terms of any power of attorney or agreement collateral thereto shall be reasonable and equitable, and no such power or agreement or any amendment thereof, shall be used or be effective in this Territory until approved by the Commissioner.

Sec. 8459.12. Modifications: Modification of the terms of the subscribers' agreement or of the power of attorney of a domestic reciprocal insurer shall be made jointly by the attorney and the subscribers' advisory committee. No such modification shall be effective retroactively, nor as to any insurance contract issued prior thereto, nor shall it be effective until approved by the Commissioner.

Sec. 8459.13. Attorney's Bond: 1. Concurrently with the filing of the declaration provided for in section 8459.08, the attorney of a domestic reciprocal shall file with the Commissioner a bond running to the Territory of Hawaii. The bond shall be executed by the attorney and by an authorized corporate surety, and shall be subject to the Commissioner's approval.

2. The bond shall be in the penal sum of twenty-five thousand dollars conditioned that the attorney will faithfully account for all moneys and other property of the insurer coming into his hands, and that he will not withdraw or appropriate for his own use from the funds of the insurer any moneys or property to which he is not entitled under the power of attorney.

3. The bond shall provide that it is not subject to cancellation unless sixty days' advance notice in writing of intent to cancel is given to both the attorney and the Commissioner.

Sec. 8459.14. Deposit in Lieu: In lieu of such bond, the attorney may maintain on deposit with the Commissioner a like amount in cash or in value of securities qualified under this chapter as insurers'



investments, and subject to the same conditions as the bond.

Sec. 8459.15. Actions on Bond: Action on the attorney's bond or to recover against any such deposit made in lieu thereof may be brought at any time by one or more subscribers suffering loss through a violation of the conditions thereof or by a receiver or liquidator of the insurer. Amounts so recovered shall be deposited in and become part of the insurer's funds.

Sec. 8459.16. Legal Process: 1. A certificate of authority shall not be issued to a domestic reciprocal insurer unless prior thereto the attorney has executed and filed with the Commissioner the insurer's irrevocable authorization of the Commissioner to receive legal process issued in this Territory against the insurer upon any cause of action arising within this Territory.

2. The provisions of section 8454.23 shall apply to service of such process upon the Commissioner.

3. In lieu of service on the Commissioner, legal process may be served upon a domestic reciprocal insurer by serving the insurer's attorney at his principal offices.

4. Any judgment against the insurer based upon legal process so served shall be binding upon each of the insurer's subscribers as their respective interests may appear and in an amount not exceeding their respective contingent liabilities.

Sec. 8459.17. Annual Statement: The annual statement of a reciprocal insurer shall be made and filed by the attorney in such form and detail as required by the Commissioner.

Sec. 8459.18. Contributions of Surplus: The attorney or other parties may advance to the reciprocal insurer funds as it may require from time to time in its operations. Sums so advanced shall not be treated as a liability of the insurer, and shall not be withdrawn or repaid except out of the insurer's realized earned surplus in excess of its minimum required surplus. No such withdrawal or repayment shall be made without the advance approval of the Commissioner.

Sec. 8459.19. Determining Financial Condition: In determining the financial condition of a reciprocal insurer the Commissioner shall apply the following rules:

- (1) He shall charge as liabilities the same reserves as are required of incorporated insurers issuing nonassessable policies on a reserve basis.
- (2) The surplus deposits of subscribers shall be allowed as assets, except that any premium deposit delinquent for ninety days shall first be charged against such surplus deposits.
- (3) The surplus deposits of subscribers shall not be charged as a liability.
- (4) All premium deposits delinquent less than ninety days shall be allowed as assets.
- (5) An assessment levied upon subscribers and not collected, shall not be allowed as an asset.
- (6) The contingent liability of subscribers shall not be allowed as an asset.
- (7) The computation of reserves shall be based upon premium

deposits other than membership fees and without any deduction for the compensation of the attorney.

Sec. 8459.20. **Subscribers:** Any person may make application, enter into agreement for and hold policies or contracts in or with and be a subscriber of a domestic, foreign or alien reciprocal insurer.

Sec. 8459.21. **Subscribers' Advisory Committee:** 1. The advisory committee of a domestic reciprocal insurer exercising the subscribers' rights shall be selected under such rules as the subscribers adopt.

2. Not less than three-fourths of such committee shall be composed of subscribers other than the attorney, or any person employed by, representing, or having a financial interest in the attorney.

3. The committee shall:

- (1) supervise the finances of the insurer;
- (2) supervise the insurer's operations to such extent as to assure their conformity with the subscribers' agreement and power of attorney;
- (3) procure the audit of the accounts and records of the insurer and of the attorney at the expense of the insurer;
- (4) have such additional powers and functions as may be conferred by the subscribers' agreement.

Sec. 8459.22. **Subscriber's Liability:** 1. The liability of each subscriber subject to assessment for the obligations of the reciprocal insurer shall not be joint, but shall be individual and several.

2. Each subscriber who is subject to assessment shall have a contingent assessment liability, in the amount provided for in the power of attorney or in the subscribers' agreement, for payment of actual losses and expenses incurred while his policy was in force. Such contingent liability may be at the rate of not less than one nor more than ten times the premium or premium deposit stated in the policy, and the maximum aggregate thereof shall be computed in the manner set forth in section 8459.26.

3. Each assessable policy issued by the insurer shall plainly set forth a statement of the contingent liability.

Sec. 8459.23. **Subscriber's Liability on Judgments:** 1. No action shall lie against any subscriber upon any obligation claimed against the insurer until a final judgment has been obtained against the insurer and remains unsatisfied for thirty days.

2. Any such judgment shall be binding upon each subscriber only in such proportion as his interests may appear and in an amount not exceeding his contingent liability, if any.

Sec. 8459.24. **Assessment:** 1. Assessment may be levied from time to time upon the subscribers of a domestic reciprocal insurer, other than as to nonassessable policies, by the attorney upon approval in advance by the subscribers' advisory committee and the Commissioner, or by the Commissioner in liquidation of the insurer.

2. Each such subscriber's share of a deficiency for which an assessment is made, not exceeding in any event his aggregate contingent liability as computed in accordance with section 8459.26, shall be computed by applying to the premium earned on the subscriber's policy or policies during the period to be covered by the assessment,

the ratio of the total deficiency to the total premiums earned during such period upon all policies subject to the assessment.

3. In computing the earned premiums for the purposes of this section, the gross premium received by the insurer for the policy shall be used as a base, deducting therefrom solely charges not recurring upon the renewal or extension of the policy.

4. No subscriber shall have an offset against any assessment for which he is liable, on account of any claim for unearned premium or losses payable.

Sec. 8459.25. Time Limit for Assessment: Every subscriber of a domestic reciprocal insurer having contingent liability shall be liable for, and shall pay his share of any assessment, as computed and limited in accordance with the provisions of sections 8459.01 through 8459.31 if:

- (1) while his policy is in force or within one year after its termination, he is notified by either the attorney or the Commissioner of his intentions to levy such assessment or
- (2) if an order to show cause why a receiver, conservator, rehabilitator, or liquidator of the insurer should not be appointed is issued pursuant to section 8475.19 while his policy is in force or within one year after its termination.

Sec. 8459.26. Aggregate Liability: No one policy or subscriber as to such policy, shall be assessed or be charged with an aggregate of contingent liability as to obligations incurred by a domestic reciprocal insurer in any one calendar year, in excess of the number of times the premium as stated in the policy, computed solely upon premium earned on such policy during that year.

Sec. 8459.27. Nonassessable Policies: 1. If a reciprocal insurer has a surplus of assets over all liabilities at least equal to the minimum paid-up capital stock and surplus required of a domestic stock insurer authorized to transact like classes of insurance, upon application of the attorney and as approved by the subscribers' advisory committee the Commissioner shall issue his certificate authorizing the insurer to extinguish the contingent liability of subscribers under its policies then in force in this Territory, and to omit provisions imposing contingent liability of subscribers under its policies then in force in this Territory, and to omit provisions imposing contingent liability in all policies delivered or issued for delivery in this Territory for so long as all such surplus remains unimpaired.

2. Upon impairment of such surplus, the Commissioner shall forthwith revoke the certificate. No policy shall thereafter be issued or renewed without providing for the contingent assessment liability of subscribers.

3. The Commissioner shall not authorize a domestic reciprocal insurer so to extinguish the contingent liability of any of its subscribers or in any of its policies to be issued, unless it qualifies to and does extinguish such liability of all its subscribers and in all such policies for all classes of insurance transacted by it. Except, that if required by the laws of another state in which the insurer is transacting insurance as an authorized insurer, the insurer may issue policies providing for the contingent liability of such of its subscribers as may ac-

quire such policies in such state, and need not extinguish the contingent liability applicable to policies theretofore in force in such state.

Sec. 8459.28. Share in Savings: A reciprocal insurer may from time to time return to its subscribers any savings or credits accruing to their accounts. Any such distribution shall not unfairly discriminate between classes of risks, or policies, or between subscribers, but such distribution may vary as to classes of subscribers, based upon the experience of such subscribers.

Sec. 8459.29. Subscriber's Share of Assets: Upon the liquidation of a domestic reciprocal insurer, its assets remaining after discharge of its indebtedness and policy obligations, the return of any contributions to its surplus made as provided in section 8459.18, and the return of any unused deposits, savings, or credits, shall be distributed to its subscribers who were such within the twelve months prior to the last termination of its certificate of authority according to such formula as may have been approved by the Commissioner.

Sec. 8459.30. Merger or Conversion: 1. A domestic reciprocal insurer, upon affirmative vote of not less than two-thirds of the subscribers who vote upon such merger pursuant to such notice as may be approved by the Commissioner and with the approval of the Commissioner of the terms therefor, may merge with another reciprocal insurer or be converted to a stock or mutual insurer.

2. Such a stock or mutual insurer shall be subject to the same capital requirements and shall have the same rights as a like domestic insurer transacting like classes of insurance.

3. The Commissioner shall not approve any plan for such merger or conversion which is inequitable to subscribers, or which, if for conversion to a stock insurer, does not give each subscriber preferential right to acquire stock of the proposed insurer proportionate to his interest in the reciprocal insurer as determined in accordance with section 8459.29 and a reasonable length of time within which to exercise such right.

Sec. 8459.31. Impaired Reciprocals: 1. If the assets of a domestic reciprocal insurer are at any time insufficient to discharge its liabilities other than any liability on account of funds contributed by the attorney, or other parties, and to maintain the surplus required for the classes of insurance it is authorized to transact, and if the deficiency is not cured from other sources, its attorney shall forthwith levy an assessment upon subscribers made subject to assessment by the terms of their policies for the amount needed to make up the deficiency. For the purposes of a determination of impairment of a reciprocal under this section, surplus means the required surplus which corresponds to the paid-up capital stock required of a stock insurer for authority to transact a like class or classes of insurance.

2. If the attorney fails to make the assessment within thirty days after the Commissioner orders him to do so, or if the deficiency is not fully made up within sixty days after the date the assessment was made, the insurer shall be deemed insolvent and shall be proceeded against as authorized by this chapter.

3. If liquidation of such an insurer is ordered, an assessment shall

be levied upon the subscribers for such an amount, subject to limits as provided by this chapter, as the Commissioner determines to be necessary to discharge all liabilities of the insurer, exclusive of any funds contributed by the attorney, but including the reasonable cost of the liquidation.

### ASSETS AND LIABILITIES

Sec. 8460.01. Assets Defined: In any determination of the financial condition of any insurer there shall be allowed as assets only such assets as are owned by the insurer, and which consist of:

- (1) Cash in the possession of the insurer or in transit under its control, and the true balance of any deposit of the insurer in a solvent bank or trust company;
- (2) Investments, securities, properties, and loans acquired or held in accordance with this chapter, and in connection therewith the following items:
  - a. Interest due or accrued on any bond or evidence of indebtedness which is not in default and which is not valued on a basis including accrued interest.
  - b. Declared and unpaid dividends on stocks and shares unless such amount has otherwise been allowed as an asset.
  - c. Interest due or accrued upon a collateral loan in an amount not to exceed one year's interest thereon.
  - d. Interest due or accrued on deposits in solvent banks and trust companies, and interest due or accrued on other assets if such interest is in the judgment of the Commissioner a collectible asset.
  - e. Interest due or accrued on a mortgage loan, in amount not exceeding in any event the amount, if any, of the excess of the value of the property less delinquent taxes thereon over the unpaid principal; but in no event shall interest due and unpaid for a period in excess of eighteen months be allowed as an asset.
  - f. Rent due or accrued on real property if such rent is not in arrears for more than three months, unless such rent is secured by property held in the name of the tenant and conveyed to the insurer as collateral.
- (3) Premium notes, policy loans, and other policy assets and liens on policies of life insurance, in amount not exceeding the legal reserve and other policy liabilities carried on each individual policy;
- (4) The net amount of uncollected and deferred premiums and annuity considerations in the case of a life insurer, corresponding to the basis on which reserves are held;
- (5) Agents' balances or uncollected premiums, other than for life insurance, not more than ninety days past due, less commissions payable thereon. The foregoing limitation shall not apply to premium payable directly or indirectly by the United States government or any of its instrumentalities;
- (6) Installment premiums other than life insurance premiums, in accordance with regulations prescribed by the Commis-

- sioner consistent with practice formulated or adopted by the National Association of Insurance Commissioners;
- (7) Notes and like written obligations not past due, taken for premiums other than life insurance premiums, on policies permitted to be issued on such basis, to the extent of the unearned premium reserves carried thereon and unless otherwise required by regulation prescribed by the Commissioner;
  - (8) The full amount of reinsurance recoverable by a ceding insurer from a solvent reinsurer not disqualified to take such reinsurance under this chapter; or, in the case of reinsurers disqualified under this chapter, so much of reinsurance recoverable from such reinsurer as does not exceed the liabilities carried by the ceding insurer for amounts withheld under a reinsurance treaty with such reinsurer as security for the payment of obligations thereunder if such funds are held subject to withdrawal by, and under the control of, the ceding insurer;
  - (9) Amounts receivable by an assuming insurer representing funds withheld by a solvent ceding insurer under a reinsurance treaty;
  - (10) Deposits or equities recoverable from underwriting associations, syndicates and reinsurance funds, or from any suspended banking institution, to the extent deemed by the Commissioner available for the payment of losses and claims and at values to be determined by him; and
  - (11) Other assets, not inconsistent with the foregoing provisions, deemed by the Commissioner available for the payment of losses and claims.
  - (12) All assets, whether or not consistent with the provisions of this chapter, as may be allowed pursuant to the annual statement form provided for in section 8454.26.

Sec. 8460.02. Assets Not Allowed: In addition to assets impliedly excluded under section 8460.01, the following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

- (1) Goodwill, trade names, agency plants and other like intangible assets.
- (2) Prepaid or deferred charges for expenses and commissions paid by the insurer except the unaccrued portion of taxes paid prior to due date, on real property acquired or used pursuant to section 8461.16.
- (3) Advances to officers, employees, agents, and other persons on personal security only.
- (4) Stock of such insurer, owned by it, or any equity therein or loans secured thereby, or any proportionate interest in such stock through the ownership by such insurer of an interest in another firm, corporation or business unit.
- (5) Furniture, furnishings, fixtures, safes, vehicles, library, stationery, literature, and supplies; except, such personal property as the insurer is permitted to hold pursuant to item (5) of paragraph two of section 8461.16, or which is ac-

quired through foreclosure of chattel mortgages acquired pursuant to section 8461.15, or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer other than real estate used by it for home office, branch office, and similar purposes.

- (6) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this chapter.

Sec. 8460.03. Liabilities: In any determination of the financial condition of an insurer, liabilities to be charged against its assets shall include:

- (1) The amount of its capital stock outstanding, if any;
- (2) the amount, estimated consistent with the provisions of sections 8460.01 through 8460.14, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expense of adjustment or settlement thereof;
- (3) with reference to life and disability insurance, and annuity contracts:
  - a. the amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to sections 8460.01 through 8460.14 which are applicable thereto;
  - b. reserves for disability benefits, for both active and disabled lives;
  - c. reserves for accidental death benefits; and
  - d. any additional reserves which may be required by the Commissioner, consistent with practice formulated or approved by the National Association of Insurance Commissioners, on account of such insurances;
- (4) with reference to insurances other than those specified in item (3) of this section, the amount of reserves equal to the unearned portions of the gross premiums charged on policies in force, computed in accordance with sections 8460.01 through 8460.14;
- (5) taxes, expenses, and other obligations accrued at the date of the statement; and
- (6) any additional reserve set up by the insurer for a specific liability purpose or required by the Commissioner consistent with practices adopted or approved by the National Association of Insurance Commissioners.

Sec. 8460.04. Unearned Premium Reserve: 1. With reference to insurances against loss or damage to property, except as provided in section 8460.05, and with reference to all general casualty insurance, disability insurance except as provided in sections 8460.06 and 8460.09, and surety insurance, every insurer shall maintain an unearned premium reserve on all policies in force.

2. The portions of the gross premiums in force, less authorized re-

insurance, to be held as unearned premium reserve, shall be computed according to the following table:

Terms for which Policy Was Written		Reserve for Unearned Premium
One year, or less		1/2
Two years	First year	3/4
	Second year	1/4
Three years	First year	5/6
	Second year	1/2
	Third year	1/6
Four years	First year	7/8
	Second year	5/8
	Third year	3/8
	Fourth year	1/8
Five years	First year	9/10
	Second year	7/10
	Third year	1/2
	Fourth year	3/10
	Fifth year	1/10
Over five years		Pro rata

3. In lieu of computation according to such table, all of such reserves may be computed, at the insurer's option, on a monthly or more frequent, pro rata basis.

4. After adopting any one of the methods for computing such reserve an insurer shall not change methods without the Commissioner's approval.

Sec. 8460.05. **Unearned Premium Reserve - Marine and Transportation:** With reference to marine and transportation insurances, premiums on trip risks not terminated shall be deemed unearned, and the Commissioner may require the insurer to carry a reserve thereon equal to one hundred per cent on trip risks written during the month ended as of the date of statement and computed upon a pro rata basis or, with the Commissioner's consent, in accordance with the alternative methods provided in section 8460.04.

Sec. 8460.06. **Reserves - Noncancellable Disability Insurance:** 1. The legal minimum standard for computing the active life reserve, including the unearned premium reserve, of noncancellable disability policies shall be based on Conference Modification of Class III Disability Experience with interest at not to exceed three and one-half per cent per annum on the full preliminary term basis.

2. For policies with a waiting period of less than three months or providing benefits at ages beyond the limits of Conference Modification of Class III Disability Experience, the tables shall be extended to cover the provisions of such policies on such bases as the Commissioner may approve.

3. The reserve for losses under noncancellable disability policies shall be based on Conference Modification of Class III Disability Experience, except that for claims of less than twenty-seven months' duration the reserve may be taken as equivalent to the prospective claim payments for three and one-half times the elapsed period of



disability; but in no case shall the reserve be less than the equivalent of seven weeks' claim payments.

4. The Commissioner shall modify the application of the tables and requirements prescribed in this section to policies or to claims arising under policies in accordance with the waiting period contained in such policies and in accordance with any limitation as to the time for which indemnity is payable.

Sec. 8460.07. Increased Reserves: 1. If the Commissioner determines that an insurer's unearned premium reserves, however computed, are inadequate, he may require the insurer to compute such reserves or any part thereof according to such other method or methods as are prescribed in this chapter.

2. If the loss reserves, however estimated, are inadequate, the Commissioner shall require the insurer to maintain loss reserves in such increased amount as is needed to make them adequate.

Sec. 8460.08. Loss Reserve - Liability and Workmen's Compensation Insurances: The reserves for outstanding losses and loss expenses under policies of liability insurance and workmen's compensation insurance shall be determined in accordance with the applicable basis set forth in the Convention Annual Statement Blank of the National Association of Insurance Commissioners.

Sec. 8460.09. Standard Valuation Law - Life: 1. This section shall be known as the Standard Valuation Law.

2. Annual Valuation:

- (1) The Commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer doing business in this Territory, except that in the case of an alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or others) used in the calculation of such reserves. In calculating such reserves, the Commissioner may use group methods and approximate averages for fractions of a year or otherwise. He may accept, in his discretion, the insurer's calculation of such reserves. In lieu of the valuation of the reserves herein required of any foreign or alien insurer, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the Commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.
- (2) The actual cost of making valuations under this section shall

be assessed on the insurer, whose policies are so valued, by the Commissioner.

- (3) Any such insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the Commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.
3. Minimum Valuation Standard:
  - (1) Old Policies: The minimum standard for the valuation of all such policies and contracts issued prior to the operative date of section 8469.31, shall be that provided by the laws in effect immediately prior to the effective date of this chapter.
  - (2) The minimum standard for the valuation of all such policies and contracts issued on or after the operative date of section 8469.31 shall be the Commissioners Reserve Valuation Method defined in paragraph four of this section, three and one-half per cent interest, and the following tables:
    - a. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies - the Commissioners 1941 Standard Ordinary Mortality Table.
    - b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies - the 1941 Standard Industrial Mortality Table.
    - c. For annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies - the 1937 Standard Annuity Mortality Table.
    - d. For total and permanent disability benefits in or supplementary to ordinary policies or contracts - Class Three Disability Table (1926) which for active lives, shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.
    - e. For accidental death benefits in or supplementary to policies - the Inter-Company Double Indemnity Mortality Table combined with a mortality table permitted for calculating the reserves for life insurance policies.
    - f. For group life insurance, life insurance issued on the sub-standard basis and other special benefits - such tables as may be approved by the Commissioner.
4. Commissioners Reserve Valuation Method:
  - (1) Reserves according to the Commissioners Reserve Valuation Method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective con-

tract premiums for such benefits (excluding extra premiums on a substandard policy) that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of a. over b. as follows:

- a. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; **provided**, however, that such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year higher than the age of issue of such policy.
- b. A net one-year term premium for such benefits provided for in the first policy year.

- (2) Reserves according to the Commissioners Reserve Valuation Method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) annuity and pure endowment contracts, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of this paragraph four.

5. Minimum Aggregate Reserves: In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of section 8469.31, be less than the aggregate reserves calculated in accordance with the method set forth in paragraph four and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

6. Optional Reserve Bases: Reserves for any category of policies, contracts or benefits as established by the Commissioner, issued on or after the operative date of section 8469.31, may be calculated, at the option of the insurer according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. **Provided**, however, that reserves for participating life insurance policies issued on or after the operative date of section 8469.31 may, with the consent of the Commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half per cent the insurer issuing such policies shall file with the Commissioner

a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the Commissioner shall approve.

7. **Deficiency Reserve:** If the gross premium charged by any life insurer on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

Sec. 8460.10. **Reserve Credit for Reinsurance:** 1. An insurer may take credit for reserves on risks ceded to a reinsurer to the extent reinsured, except that:

- (1) No credit shall be taken on account of reinsurance in an alien reinsurer not qualified under section 8454.30 or in any reinsurer which has been disapproved by the Commissioner.
- (2) No credit shall be allowed, as an asset or as a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

2. A reinsurance agreement may provide that the liquidator or receiver or statutory successor of an insolvent ceding insurer shall give written notice of the pendency of a claim against the insolvent ceding insurer on the policy or bond reinsured within a reasonable time after such claim is filed in the insolvency proceeding and that during the pendency of such claim any assuming insurer may investigate such claim and interpose, at its own expense, in the proceeding where such claim is to be adjudicated, any defense or defenses which it may deem available to the ceding insurer or its liquidator or receiver or statutory successor.

3. The expense thus incurred by the assuming insurer shall be chargeable subject to court approval against the insolvent ceding insurer as a part of the expense of liquidation to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer.

4. Where two or more assuming insurers are involved in the same claim and a majority in interest elect to interpose defense to such claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreement as though such expense had been incurred by the ceding insurer.

Sec. 8460.11. **Valuation of Bonds:** 1. All bonds or other evidences of debt having a fixed term and rate held by any insurer may, if amply secured and not in default as to principal or interest, be valued as follows:

- (1) If purchased at par, at the par value.

- (2) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at the earliest date callable at par or maturing at par and so as to yield in the meantime the effective rate of interest at which the purchase was made; or in lieu of such method, according to such accepted method of valuation as is approved by the Commissioner.
  - (3) Purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase plus actual brokerage, transfer, postage or express charges paid in the acquisition of such securities.
  - (4) Unless otherwise provided by a valuation established or approved by the National Association of Insurance Commissioners, no such security shall be carried at above call price for the entire issue during any period within which the security may be so called.
2. The Commissioner shall have full discretion in determining the method of calculating values according to the rules set forth in this section, and not inconsistent with any such methods then currently formulated or approved by the National Association of Insurance Commissioners.

Sec. 8460.12. Valuation of Other Securities: 1. Any security, other than a security covered by section 8460.11, is required to be valued at its market value or if there is no market, then at its value as fixed by an impartial appraiser, all consistent with any current method for the valuation of any such security formulated or approved by the National Association of Insurance Commissioners.

2. Preferred or guaranteed stock or shares while paying full dividends may be carried at a fixed value in lieu of market value, at the discretion of the Commissioner and in accordance with such method of computation as he may approve.

3. The stock of a subsidiary of an insurer acquired after the effective date of this section shall be valued on the basis of the value of only such of the assets of such subsidiary as would constitute lawful investments for the insurer if acquired or held directly by the insurer.

Sec. 8460.13. Valuation of Property: 1. Real property acquired pursuant to a mortgage loan or a contract for a deed, in the absence of a recent appraisal deemed by the Commissioner to be reliable shall not be valued at an amount greater than the unpaid principal of the defaulted loan or contract at the date of such acquisition, with accrued interest thereon for not in excess of eighteen months, together with any taxes and expenses paid or incurred in connection with such acquisition, and the cost of improvements thereafter made by the insurer and any amounts thereafter paid by the insurer on assessments levied for improvements in connection with the property.

2. Other real property held by an insurer shall not be valued at any amount in excess of fair value.

3. Personal property acquired pursuant to chattel mortgages made under section 8461.15 shall not be valued at an amount greater than the unpaid balance of principal on the defaulted loan at the date of acquisition together with taxes and expenses incurred in connection

with such acquisition, or the fair value of such property, whichever amount is the lesser.

Sec. 8460.14. Valuation of Purchase Money Mortgages: Purchase money mortgages on real property referred to in section 8460.13 shall be valued in an amount not exceeding the acquisition cost of the real property covered thereby or ninety per cent of the fair value of such real property, whichever is less.

## INVESTMENTS

Sec. 8461.01. Eligible Investments-Scope: 1. The provisions of sections 8461.01 through 8461.31 apply to domestic insurers only. Insurers shall invest in or loan their funds on the security of, and shall hold as assets, only eligible investments as prescribed in sections 8461.01 through 8461.31.

2. Any investment of a domestic insurer held by it on the effective date of this chapter and which was a legal investment immediately prior thereto, shall be deemed a legal investment hereunder.

3. The eligibility of an investment shall be determined as of the date of its making or acquisition.

4. Any limitation based upon the amount of the insurer's assets shall relate to assets as shown by the insurer's annual statement as of December thirty-first preceding date of investment.

Sec. 8461.02. General Qualifications: 1. No security or other investment shall be eligible for purchase or acquisition under sections 8461.01 through 8461.31 unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the insurer is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon; except, that it may acquire real property as provided in this chapter.

2. No security shall be eligible for purchase at a price above its fair value.

3. No provision of sections 8461.01 through 8461.31 shall prohibit the acquisition by an insurer of other or additional securities or property if received as a dividend or as a lawful distribution of assets, or if acquired pursuant to a lawful and bona fide agreement of bulk reinsurance, merger, or consolidation. Any investments so acquired which are not otherwise eligible under sections 8461.01 through 8461.31 shall be disposed of pursuant to section 8461.29 if personal property or securities, or pursuant to section 8461.17 if real property.

Sec. 8461.03. General Limitations: Except as otherwise expressly limited, an insurer shall not have at any time any combination of investments in or loans upon the security of the obligations, property, and securities of any one person aggregating an amount exceeding ten per cent of the insurer's assets. This section shall not apply to investments in, or loans upon the security of general obligations of the government of the United States or of any state of the United States, nor to investments in foreign securities pursuant to paragraph one of section 8461.18, nor include policy loans made pursuant to section 8461.19.

Sec. 8461.04. Public Obligations: An insurer may invest any of

its funds in bonds or other evidences of debt, not in default as to principal or interest, which are valid and legally authorized obligations issued, assumed or guaranteed by the United States or by any state thereof or by any possession of the United States or by any county, city, town, village, municipality or district therein or by any political subdivision thereof or by any civil division or public instrumentality of one or more of the foregoing, if, by statutory or other legal requirements applicable thereto, such obligations are payable, as to both principal and interest:

- (1) from taxes levied or required to be levied upon all taxable property or all taxable income within the jurisdiction of such governmental unit or,
- (2) from adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of such payment, but not including any obligation payable solely out of special assessments on properties benefited by local improvements unless adequate security is evidenced by the ratio of assessment to the value of the property or the obligation is additionally secured by an adequate guaranty fund required by law.

Sec. 8461.05. Corporate Obligations: An insurer may invest any of its funds in obligations other than those eligible for investment under section 8461.11 if they are issued, assumed, or guaranteed by any solvent institution created or existing under the laws of the United States or of any state, or district thereof, and are qualified under any of the following:

- (1) Obligations which are secured by adequate collateral security and bear fixed interest, if during each of any three, including the last two, of the five fiscal years next preceding the date of acquisition by the insurer, the net earnings of the issuing, assuming, or guaranteeing institution available for its fixed charges, as defined in section 8461.06, have been not less than one and one-fourth times the total of its fixed charges for such year. In determining the adequacy of collateral security, not more than one-third of the total value of the required collateral shall consist of stock other than stock meeting the requirements of section 8461.08.
- (2) Fixed interest-bearing obligations, other than those described in item (1) of this section, if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by the insurer have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period and if during the last year of such period such net earnings have been not less than one and one-half times its fixed charges for such year.
- (3) Adjustment, income or other contingent interest obligations if the net earnings of the issuing, assuming or guaranteeing institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by the insurer have averaged per year not less than one and one-half

times the sum of its annual fixed charges and its average maximum contingent interest applicable to such period and if during each of last two years of such period such net earnings have been not less than one and one-half times the sum of its fixed charges and maximum contingent interest for such year.

Sec. 8461.06. Definitions Pertaining to Investments: 1. Certain terms used are defined for the purposes of sections 8461.01 through 8461.31 as follows:

- (1) Obligation includes bonds, debentures, notes or other evidences of indebtedness.
- (2) Institution includes corporations, joint-stock associations, and business trusts.
- (3) Net earnings available for fixed charges means net income after deducting operating and maintenance expenses, taxes other than federal and state income taxes, depreciation and depletion, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of such institution.
- (4) Fixed charges includes interest on funded and unfunded debt, amortization of debt discount, and rentals for leased properties.
- (5) Value means fair value. If there is a market, then market value is the best evidence of fair value.

2. If net earnings are determined in reliance upon consolidated earnings statements of parent and subsidiary institutions, such net earnings shall be determined after provision for income taxes of subsidiaries and after proper allowance for minority stock interest, if any, and the required coverage of fixed charges shall be computed on a basis including fixed charges and preferred dividends of subsidiaries other than those payable by such subsidiaries to the parent corporation or to any other of such subsidiaries, except that if the minority common stock interest in the subsidiary corporation is substantial, the fixed charges and preferred dividends may be apportioned in accordance with regulations prescribed by the Commissioner.

Sec. 8461.07. Merged, Reorganized Institutions: In applying the earnings test set forth in section 8461.06 to any such institution, whether or not in legal existence during the whole of such five years next preceding the date of investment by the insurer, which has at any time during the five-year period acquired substantially all of the assets of any other institution or institutions by purchase, merger, consolidation or otherwise, or has been reorganized pursuant to the bankruptcy law, the earnings of the predecessor or constituent institutions, or of the institution so reorganized, available for interest and dividends for such portion of the five-year period as may have preceded such acquisition, or such reorganization, may be included in the earnings of such issuing, assuming or guaranteeing institution for such portion of such period as may be determined in accordance with adjusted or pro forma consolidated earnings statements covering such portion of such period and giving effect to all stock or shares



outstanding, and all fixed charges existing, immediately after such acquisition, or such reorganization.

Sec. 8461.08. Preferred or Guaranteed Stocks or Shares: An insurer may invest any of its funds, in an aggregate amount not exceeding ten per cent of its assets, if a life insurer, or not exceeding fifteen per cent of such assets if other than a life insurer, in preferred or guaranteed stocks or shares, other than common stocks, of solvent institutions existing under the laws of the United States or of any state, district or territory thereof, if all of the prior obligations and prior preferred stocks, if any, of such institution at the date of acquisition by the insurer are eligible as investments under sections 8461.01 through 8461.31; and if qualified under either of the following:

- (1) Preferred stocks or shares shall be deemed qualified if both these requirements are met:
  - a. The net earnings of the institution available for its fixed charges for a period of five fiscal years next preceding the date of acquisition by the insurer must have averaged per year not less than one and one-half times the sum of its average annual fixed charges, if any, its average annual maximum contingent interest, if any, and its average annual preferred dividend requirements applicable to such period; and
  - b. during each of the last two years of such period such net earnings must have been not less than one and one-half times the sum of its fixed charges, contingent interest and preferred dividend requirements for such year. The term preferred dividend requirements shall be deemed to mean cumulative or noncumulative dividends whether paid or not.
- (2) Guaranteed stocks or shares shall be deemed qualified if the assuming or guaranteeing institution meets the requirements of item (1) of section 8461.05, construed so as to include as a fixed charge the amount of guaranteed dividends of such issue or the rental covering the guarantee of such dividends.

Sec. 8461.09. Trustees' or Receivers' Obligations: An insurer may invest any of its funds, in an aggregate amount not exceeding two per cent of its assets, in certificates, notes, or other obligations issued by trustees or receivers of institutions existing under the laws of the United States or of any state, district or territory thereof, which, or the assets of which, are being administered under the direction of any court having jurisdiction, if such obligation is adequately secured as to principal and interest.

Sec. 8461.10. Equipment Trust Obligations: An insurer may invest any of its funds, in an aggregate amount not exceeding ten per cent of its assets, in equipment trust obligations or certificates which are adequately secured, or in other adequately secured instruments evidencing an interest in transportation equipment wholly or in part within the United States and the right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

Sec. 8461.11. Mortgage Loans and Contracts: An insurer may invest any of its funds in:

- (1) a. Bonds or evidences of debt which are secured by first mortgage or deed of trust on real property, located in the United States, which meets either of the following requirements:
  - (a) Improved, unencumbered real property; or
  - (b) Unimproved, unencumbered real property, only where the real property is to be improved, and the bond or evidence of debt is secured by a first mortgage or deed of trust on the real property and the improvement to be made thereon.
- b. Chattel mortgages in connection therewith pursuant to section 8461.15;
- c. The equity of the seller of any such property in the contract for a deed, covering the entire balance due on a bona fide sale of such property, in amount not to exceed fifteen thousand dollars or the amount permissible under section 8461.03, whichever is greater, in any one such contract for deed, nor in any amount in excess of the following percentages of the actual sale price or fair value of the property, whichever is the smaller:
  - (a) If a dwelling primarily designed for single family occupancy and occupied by the purchaser under such contract, - seventy-five per cent.
  - (b) In all other cases, - sixty-six and two-thirds per cent.
- (2) Purchase money mortgages or like securities received by it upon the sale or exchange of real property acquired pursuant to section 8461.16.
- (3) Evidences of debt, secured by mortgage or trust deed guaranteed or insured by an agency of the United States of America.
- (4) Evidences of debt secured by first mortgages or deeds of trust upon leasehold estates, running for a term of not less than five years beyond the maturity of the loan as made or as extended, in improved real property, otherwise unencumbered, and if the mortgagee is entitled to be subrogated to all the rights under the leasehold.

Sec. 8461.12. Mortgage Loan Limited by Property Value: 1. No mortgage loan or investment therein upon any one parcel of real property shall exceed in amount at the time of acquisition:

- (1) Seventy-five per cent of the fair value of the property if the property is a dwelling house primarily intended for occupancy by one family and the loan is required to be amortized within not more than twenty years by payment of installments thereon at regular intervals not less frequent than every three months; or
  - (2) Sixty-six and two-thirds per cent of the fair value of the property in all other cases.
2. The extent to which a mortgage loan made under item (3) of section 8461.11 is guaranteed or insured by an agency of the United States of America, may be deducted before application of the limita-

tions contained in paragraph one of this section.

Sec. 8461.13. Encumbrance Defined: 1. Real property shall not be deemed to be encumbered within the meaning of section 8461.11 by reason of the existence of instruments reserving mineral, oil, timber or similar rights, rights of way, sewer rights, rights in walls, nor by reason of any liens for taxes or assessments not yet due, or on account of liens not delinquent for community recreational facilities, or for the maintenance of community facilities, nor by reason of building restrictions or other restrictive covenants common to the community in which the property is located, nor by liens for service and maintenance of water rights where not delinquent, nor when such real property is subject to lease under which rents or profits are reserved to the owner if in any event the security for the loan or investment is a first lien upon the real property.

2. If under any of the exceptions set forth in paragraph one of this section there is any sum owing but not due or delinquent, the total amount of such sum shall be deducted from the amount which otherwise might be loaned on the property. The value of any mineral, oil, timber or similar right reserved shall not be included in the fair value of the property.

Sec. 8461.14. Appraisal - Insurance - Limit: 1. The fair value of property shall be determined by appraisal by a competent appraiser at the time of the making or acquiring of a mortgage loan or investing in a contract for the deed thereon.

2. Buildings and other improvements located on the mortgaged premises shall be kept insured for the benefit of the mortgagee against loss or damage from fire in an amount not less than the unpaid balance of the obligation, or the insurable value of the property, whichever is the lesser.

3. An insurer shall not make or acquire a loan or loans upon the security of any one parcel of real property in aggregate amount in excess of fifty thousand dollars or more than the amount permissible under section 8461.03, whichever is the greater.

Sec. 8461.15. Chattel Mortgages: 1. In connection with a mortgage loan on the security of real property designed and used primarily for residential purposes only acquired pursuant to section 8461.11, an insurer may loan or invest an amount not exceeding twenty per cent of the amount loaned or invested in such real property mortgage, on the security of a chattel mortgage for a term of not more than five years representing a first and prior lien, except for taxes not then delinquent, on personal property constituting durable equipment owned by the mortgagor and kept and used in the mortgaged premises.

2. The term durable equipment shall include only mechanical refrigerators, mechanical laundering machines, heating and cooking stoves and ranges, mechanical kitchen aids, vacuum cleaners, and fire extinguishing devices; and in addition in the case of apartment houses and hotels, room furniture and furnishings.

3. Prior to acquisition of a chattel mortgage, items of property to be included shall be separately appraised by a competent appraiser and the fair market value thereof determined. No such chattel mort

gage loan shall exceed in amount the same ratio of loan to the value of the property as is applicable to the companion on the real property.

Sec. 8461.16. Real Property Owned: 1. An insurer other than a life insurer may own and invest or have invested in its home office and branch office buildings any of its funds in aggregate amount not to exceed ten per cent of its admitted assets unless approved by the Commissioner, or if a mutual or reciprocal insurer not to exceed ten per cent of its admitted assets nor such amount as would reduce its surplus, exclusive of such investment, below the minimum required surplus for the class, or combination of classes, of insurance authorized, unless approved by the Commissioner. A life insurer may own and invest or have invested in its home office and branch office buildings any of its funds in an aggregate amount not to exceed ten per cent of its admitted assets, or fifty per cent of the excess of its admitted assets over its liabilities, other than capital stock if a stock life insurer, whichever is the lesser amount. Such home office or branch office buildings may be constructed upon leasehold estates. 2. An insurer may invest any of its funds, in aggregate amount not exceeding 10 per cent of its assets in real property acquired for the purpose of leasing the same to any person for a period of not less than twenty years, or in real property already leased for an unexpired period of not less than fifteen years of an original period of not less than twenty years, under the following terms and conditions:

- (1) The lessee shall at his own cost erect, or there has already been erected, thereon free of liens, a building or other improvements costing an amount at least equal to the value of such real estate exclusive of improvements; but if the lease be entered into simultaneously with the purchase of the real estate, the lessor may agree to erect such improvements on such real estate;
- (2) The improvements shall remain on the property during the period of the lease, with provision when such improvements are put upon the property at the cost of the lessee that at the termination of the lease the ownership of such improvements free of liens shall vest in the owner of the real estate;
- (3) The lessee shall during the term of the lease, or the unexpired period of the lease if the property be bought subject to the lease, pay to the owner of the real estate rent in such amount as will enable the owner to write off the investment at or before the normal termination of the lease, or at or before the end of fifty years should the lease, or the unexpired period of the lease, be for a longer period than fifty years; and
- (4) During the term of the lease the tenant shall pay all taxes and assessments levied on or against such real estate, including improvements, shall keep and maintain such improvements in good repair, and shall provide and maintain for the benefit of the lessor fire insurance on the improvements in an amount at least equal to the insurable value of the improve-

ments, or at least equal to the amount invested by the lessor in such real estate, whichever is less.

3. Real property acquired pursuant to paragraph 2 of this section 8461.16 shall not be treated as an investment unless and until the required improvements have been constructed and the lease agreement entered into, and the amount to which such real property shall be treated as an investment shall not exceed the amount actually invested reduced each year in such amounts as will suffice to write off completely the investment at the normal termination of the lease or at the end of fifty years should the term of the lease, or the unexpired period of the lease, be for a longer period than fifty years.

4. An insurer may own real property acquired in satisfaction or on account of loans, mortgages, liens, judgments, or other debts previously owing to the insurer in the course of its business, and may invest or have invested in aggregate amount not exceeding three per cent of its assets in other real property, and in the repair, alteration, furnishing, or improvement thereof, as follows only:

- (1) Other real property requisite for its accommodation in the convenient transaction of its business if approved by the Commissioner.
- (2) Real property acquired by gift or devise.
- (3) Real property acquired in exchange for real property owned by it. If necessary in order to consummate such an exchange the insurer may put up cash in amount not to exceed twenty per cent of the fair value of its real property to be so exchanged, in addition to such property.
- (4) Real property acquired through a lawful merger or consolidation with it of another insurer and not required for the purposes specified in paragraph one and in item (1) of paragraph two of this section.
- (5) Upon approval of the Commissioner, in real property and equipment incident to real property, requisite or desirable for the protection or enhancement of the value of other real property owned by the insurer.

Sec. 8461.17. Time Limit for Disposal: 1. Real property acquired by an insurer pursuant to item (1) of paragraph four of section 8461.16, shall be disposed of within five years after it has ceased being necessary for the use of the insurer in the transaction of its business. Real property acquired by an insurer pursuant to such loans, mortgages, liens, judgments, or other debts, or pursuant to items (2), (3), (4), and (5) of paragraph four of section 8461.16 shall be disposed of within five years after date of acquisition. The time for any such disposal shall be extended by the Commissioner for a definite additional period or periods upon application and reasonable showing that forced sale of the property, otherwise necessary, would be against the best interest of the insurer.

2. Any such real property held by the insurer without the Commissioner's consent beyond the time permitted for its disposal shall not be carried or allowed as an asset.

Sec. 8461.18. Foreign Securities: 1. An insurer authorized to transact insurance in a foreign country may invest any of its funds,

in aggregate amount not exceeding its deposit and reserve obligations incurred in such country, in securities of or in such country possessing characteristics and of a quality similar to those required pursuant to sections 8461.01 through 8461.31 for investments in the United States.

2. An insurer may invest any of its funds, in an aggregate amount not exceeding five per cent of its assets, in addition to any amount permitted pursuant to paragraph one of this section, in obligations of the governments of the Dominion of Canada or of Canadian provinces or municipalities, and in obligations of Canadian corporations, which have not been in default during the five years next preceding date of acquisition, and which are otherwise of equal quality to like United States public or corporate securities as prescribed in sections 8461.01 through 8461.31.

Sec. 8461.19. Policy Loans: An insurer may loan upon a life insurance policy as collateral security, any sum not exceeding the cash surrender value of the policy.

Sec. 8461.20. Banks and Loan Associations: 1. An insurer may invest or deposit any of its funds in checking or savings accounts, under separate certificates of deposit, or in any other form in solvent banks or trust companies.

2. An insurer may invest any of its funds, in an aggregate amount not exceeding fifty thousand dollars, in share or savings accounts in solvent building and loan associations and savings and loan associations.

Sec. 8461.21. Insurance Stocks: 1. An insurer other than a life insurer may invest a portion of its surplus funds in an aggregate amount not exceeding fifty per cent of its surplus over its capital stock and other liabilities, or thirty-five per cent of its capital funds, whichever is greater, in the stocks of other insurers organized and existing under the laws of states of the United States. Indirect or proportionate interests in insurance stocks held by an insurer through any intermediate subsidiary or subsidiaries shall be included in applying the limitations provided in paragraph one, two and three of this section.

2. A life insurer may invest in such insurance stocks in an aggregate amount not exceeding the smaller of the following amounts: Five per cent of its assets, or twenty-five per cent of its surplus over its capital stock and other liabilities, or of surplus over its required minimum surplus if a mutual life insurer.

3. No such insurance stock shall be eligible as an investment unless it meets the qualifications for stocks of other corporations as set forth in section 8461.22.

4. The limitations on investment in insurance stocks set forth in sections 8461.01 through 8461.31 shall not apply to stocks acquired under a plan for merger of the insurers which has been approved by the Commissioner or to shares received as stock dividends upon shares already owned.

Sec. 8461.22. Common Stocks: After satisfying the requirements of section 8461.26, an insurer may invest any of its funds in common

shares of stock in solvent United States corporations that qualify as a sound investment; except, that as to life insurers such investments shall further not aggregate an amount in excess of fifty per cent of the insurer's surplus over its minimum required surplus.

Sec. 8461.23. Collateral Loans: An insurer is permitted to loan its funds upon the pledge of securities or evidences of debt eligible for investment under sections 8461.01 through 8461.31. As at date made, no such loan shall exceed in amount ninety per cent of the fair value of such collateral pledged, except that loans upon pledge of United States government bonds may be equal to the fair value of the bonds pledged and that loans on life insurance policies may equal the cash surrender value of the policy as provided in section 8461.19. The amount so loaned shall be included in the maximum percentage of funds permitted to be invested in the kinds of securities for evidences of debt pledged or permitted by section 8461.03.

Section 8461.24. Miscellaneous Investments: 1. An insurer may loan or invest its funds in an aggregate amount not exceeding the lesser of the following sums: Five per cent of its assets, or fifty per cent of its surplus over its capital and other liabilities, or if a mutual or reciprocal insurer fifty per cent of its surplus over the minimum required surplus, in kinds of loans or investments not otherwise specifically made eligible for investment and not specifically prohibited or made ineligible by this or other provisions of sections 8461.01 through 8461.31.

2. No such loan or investment shall be represented by:

- (1) any item described in section 8460.02; or
- (2) any loan or investment of a kind specifically made eligible under any other provision of this chapter; or
- (3) any loan, investment, or asset theretofore acquired or held by the insurer under any other category of loans or investments.

3. No one such investment or loan shall exceed the amount specified in paragraph one of this section or one per cent of the insurer's assets, whichever is the lesser.

4. The insurer shall keep a separate record of all investments acquired under this section.

Sec. 8461.25. Special Consent Investments: Upon advance approval of the Commissioner and in compliance with section 8461.02, an insurer may make any investment or kind of investment or exchange of assets otherwise prohibited or not eligible under sections 8461.01 through 8461.31. The Commissioner's order of approval if granted shall specify whether the investment of any part thereof may be credited to required minimum capital or surplus investments, or to investment of reserves.

Sec. 8461.26. Required Investments for Capital and Reserves: 1. An insurer shall invest and keep invested its funds aggregating in amounts, if a stock insurer, not less than seventy-five per cent of its minimum required capital, or if a mutual or reciprocal insurer, not less than seventy-five per cent of its required minimum surplus, in cash or investments eligible in accordance with section 8461.04 (pub-

lic obligations), and in mortgage loans on real property, pursuant to section 8461.11.

2. In addition to the investments required by paragraph one of this section, an insurer shall invest and keep invested its funds aggregating not less than one hundred per cent of its reserves required by this chapter in cash or premiums in course of collection or in investments eligible in accordance with the following sections: 8461.04, 8461.05, 8461.08, 8461.09, 8461.10, 8461.11, 8461.15, 8461.16, 8461.18, 8461.19, 8461.20, 8461.23, 8461.25.

Sec. 8461.27. Prohibited Investments: In addition to investments excluded under other provisions of this chapter, an insurer shall not, except with the Commissioner's approval in advance, invest in or loan its funds upon the security of, or hold:

- (1) Issued shares of its own capital stock, except for the purpose of mutualization in accordance with section 8457.08.
- (2) Any investment or loan ineligible under the provisions of section 8461.03.
- (3) Securities issued by any insolvent corporation.
- (4) Any investment or security which is found by the Commissioner to be designed to evade any prohibition of this chapter.

Sec. 8461.28. Securities Underwriting, Agreements to Withhold or to Repurchase: No insurer shall:

- (1) participate in the underwriting of the marketing of securities in advance of their issuance or enter into any transaction for such underwriting for the account of such insurer jointly with any other person; or
- (2) enter into any agreement to withhold from sale any of its property, or to repurchase any property sold by it.

Sec. 8461.29. Disposal of Ineligible Property and Securities: 1. Any personal property or securities lawfully acquired by an insurer, which it could not otherwise have invested in or loaned its funds upon at the time of such acquisition, shall be disposed of by the insurer within one year from date of acquisition, unless within such period the security has attained the standard for eligibility. The Commissioner, upon application and reasonable showing that forced sale of any such property or security would be against the best interests of the insurer, may extend the disposal period for an additional reasonable time.

2. While any such property or security remains so ineligible it shall not be allowed as an asset of the insurer.

3. Any ineligible property or security acquired contrary to the provisions of this chapter by an insurer shall be disposed of forthwith, and for failure so to do within sixty days after order of the Commissioner requiring such disposal, the Commissioner may revoke or suspend the insurer's certificate of authority.

4. For the purposes of paragraph three of this section, an investment otherwise eligible shall not be deemed ineligible for the reason that it is in excess of the amount permitted under sections 8461.01 through 8461.31 to be invested in the category of investments to which it belongs; and any such excess investment shall be disposed of



within the time prescribed in paragraph one of this section.

Sec. 8461.30. Authorization of Investments: No investment, loan, sale or exchange thereof, except a loan upon a life insurance policy, shall be made by any domestic insurer unless authorized or approved by its board of directors or by a committee thereof charged by the board of directors or the by-laws with the duty of making such investment, loan, sale or exchange. The minutes of any such committee shall be recorded and reports thereof shall be submitted to the board of directors for approval or disapproval.

Sec. 8461.31. Record of Investments: As to each investment or loan of the funds of a domestic insurer, a written record in permanent form showing the authorization thereof shall be made and signed by an officer of the insurer or by the chairman of the committee authorizing the investment or loan.

Sec. 8461.32. Investments of Foreign, Alien Insurers: The investments of a foreign or alien insurer shall be as permitted by the laws of its domicile but shall be of a quality substantially as high as those required by the provisions of sections 8461.01 through 8461.31 for similar funds of like domestic insurers.

### FEES

Sec. 8462.01. Fees: 1. The Commissioner shall collect in advance the following fees:

- (1) Certificate of authority:
  - a. Issuance ..... \$100.00
- (2) Organization of domestic insurers and affiliated corporations:
  - a. Application and all other papers required for issuance of solicitation permit, filing ..... \$100.00
  - b. Issuance of solicitation permit ..... \$ 25.00
- (3) General agent's license:
  - a. Issuance, regular license ..... \$ 10.00
  - b. Issuance, temporary license ..... \$ 10.00
- (4) Subagent's license:
  - a. Issuance, regular license ..... \$ 10.00
  - b. Issuance, temporary license ..... \$ 10.00
- (5) Nonresident agent's or broker's license:
  - a. Issuance ..... \$ 10.00
- (6) Solicitor's license:
  - a. Issuance ..... \$ 10.00
- (7) Independent adjuster's license:
  - a. Issuance ..... \$ 10.00
- (8) Public adjuster's license:
  - a. Issuance ..... \$ 10.00
- (9) Surplus line broker's license:
  - a. Issuance ..... \$ 25.00
- (10) Examination for license:
  - a. Regularly scheduled, each examination ..... \$ 3.00
  - b. Specially scheduled, each examination ..... \$ 25.00

2. As to all certificates of authority and licenses which are in force on the effective date of this chapter, the first issuance thereafter shall

not be deemed an issuance for the purposes of this section, and hence the fee for an issuance shall not be charged.

3. The fees for services of the Bureau subsequent to the issuance of a certificate of authority or a license are as follows:

- (1) \$60.00 per year for all services (including extension of the certificate of authority) for an authorized insurer.
- (2) \$5.00 per year for all services (including extension of the license) for a regularly licensed general agent.
- (3) \$5.00 per year for all services (including extension of the license) for a regularly licensed subagent.
- (4) \$5.00 per year for all services (including extension of the license) for a regularly licensed nonresident broker.
- (5) \$3.50 per year for all services (including extension of the license) for a regularly licensed solicitor.
- (6) \$5.00 per year for all services (including extension of the license) for a regularly licensed independent adjuster.
- (7) \$5.00 per year for all services (including extension of the license) for a regularly licensed public adjuster.
- (8) \$5.00 per year for all services (including extension of the license) for a licensed surplus line broker.
- (9) The services referred to in items (1) through (8) of this paragraph three shall not include services in connection with examinations, investigations, hearings, appeals, and deposits with a depository other than the Treasurer of this Territory.

4. The Commissioner shall calculate the fee, provided for in paragraph three of this section, for the period of time which ends upon the next succeeding extension date of the certificate of authority determined pursuant to section 8454.14 or the license determined pursuant to section 8465.38, and shall so notify the holder of the certificate or the license by written notice sent from the Bureau at least thirty days prior to such extension date. The fee so calculated shall be due on the extension date. If the fee is not paid before or on the extension date, the fee will be increased by a penalty in the amount of fifty per cent of the fee. If the fee and the penalty are not paid within the thirty days immediately following the extension date, the Commissioner may revoke the certificate of authority or license and shall not re-issue the certificate of authority or license until the fee and penalty have been paid.

5. All fees and penalties so calculated shall be remitted by the Commissioner to the Treasurer of this Territory not later than the first business day following collection, and shall be placed to the credit of the general fund.

6. In the event a certificate holder or a licensee shall voluntarily terminate his certificate of authority or license prior to the extension date thereof and shall have paid in advance fees, provided for in paragraph three of this section, which have not been earned by the Bureau and which amount to more than five dollars, the Commissioner shall at the time of such termination, authorize a refund thereof out of the general funds of this Territory by submitting a voucher therefor to the Auditor of this Territory.

## UNAUTHORIZED INSURERS

Sec. 8463.01. Representation of Unauthorized Insurer: 1. Except as provided in sections 8463.01 through 8463.17, a person is not permitted to:

- (1) Represent or assist an unauthorized insurer in procuring, placing or maintaining any insurance upon or with relation to any subject of insurance resident, located or to be performed in this Territory;
  - (2) Represent or assist any person in procuring insurance in an unauthorized insurer upon or with relation to any such subject of insurance;
  - (3) Inspect or examine any risk or investigate or adjust any loss or collect or receive any premium on behalf of any such insurer or person.
2. This section does not apply to:
- (1) Reinsurance placed or procured;
  - (2) Lawfully procured surplus line insurance;
  - (3) Any transaction with respect to insurance delivered in a state where the insurer was legally qualified to transact insurance;
  - (4) Any transaction with respect to insurance delivered in this Territory at a time when the insurer was authorized to transact insurance in this Territory.

Sec. 8463.02. Advertising Prohibited: 1. No publication published in this Territory, or radio or television broadcaster, or any other agency or means for the dissemination of information operated or located in this Territory shall publish, broadcast, or otherwise disseminate within this Territory, advertising for or on behalf of any insurer not then authorized to transact insurance in this Territory.

2. This section does not apply to publications published in this Territory principally for circulation in the continental United States, wherein advertising by or on behalf of an unauthorized insurer is not directed expressly toward residents or subjects of insurance in this Territory.

Sec. 8463.03. Validity of Contracts Illegally Effectuated: A contract of insurance effectuated by an unauthorized insurer in violation of the provisions of this chapter shall be voidable except at the instance of the insurer.

Sec. 8463.04. Surplus Line Insurance Defined: Surplus line insurance means insurance procured from an unauthorized insurer in accordance with the provisions of section 8463.05.

Sec. 8463.05. Surplus Line Insurance Authorized: A general agent is permitted to procure surplus line insurance only if:

- (1) After diligent search he determines in good faith that any portion or the full amount of insurance required to protect the interest of the insured, or insurance affording substantially the same protection, cannot be procured from a substantial number of the insurers authorized to transact that kind of insurance in this Territory; and
- (2) The surplus line insurance procured is in addition to or in

- excess of the amount and coverage which can be procured from such substantial number of authorized insurers; and
- (3) Such insurance is procured through a licensed surplus line broker; and
  - (4) Such insurance is not procured at a rate lower than the lowest rate at which a substantial number of the insurers authorized to transact that kind of insurance in this Territory will provide insurance affording substantially the same protection.

Sec. 8463.06. Endorsement of Contract: Every insurance contract procured and delivered as a surplus line coverage pursuant to sections 8463.01 through 8463.17 shall have stamped upon it and be initialed by or bear the name of the surplus line broker who procured it, the following:

'This contract is a surplus line coverage under the insurance laws of the Territory of Hawaii.'

Sec. 8463.07. Surplus Line Insurance Valid: Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with sections 8463.01 through 8463.17 shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

Sec. 8463.08. Licensing of a Surplus Line Broker: Any licensed general agent may be licensed as a surplus line broker (although in fact the person may be either a broker or an agent with respect to a particular transaction) as follows:

- (1) Application to the Commissioner for the license shall be made on forms furnished by the Commissioner.
- (2) Prior to issuance of license the applicant shall file with the Commissioner and thereafter for as long as the license remains in effect he shall keep in force a bond in favor of this Territory in the penal sum of five thousand dollars, with authorized corporate sureties approved by the Commissioner, conditioned that he will conduct business under the license in accordance with the provisions of sections 8463.01 through 8463.17 and that he will promptly remit the taxes provided by section 8463.13. No such bond shall be terminated unless not less than sixty days prior written notice thereof is filed with the Commissioner.

Sec. 8463.09. May Accept Business from Agents: A licensed surplus line broker may accept and place surplus line business for any general agent licensed in this Territory for the class of insurance involved, and may compensate such agent therefor.

Sec. 8463.10. Surplus Lines in Solvent Insurers: A surplus line broker shall not knowingly place surplus line insurance with insurers unsound financially. Whenever practicable, the broker shall ascertain the financial condition of the unauthorized insurer before placing insurance therewith. The broker shall not knowingly so insure with any stock insurer having capital and surplus amounting to less than five hundred thousand dollars or with any other type of in-

suror having assets of less than five hundred thousand dollars of which not less than one hundred thousand dollars is surplus.

Sec. 8463.11. Records of Surplus Line Broker: Each licensed surplus line broker shall keep in his office in this Territory a full and true record of each surplus line contract placed by him including a copy of the daily report, if any, showing such of the following items as may be applicable:

- (1) Amount of the insurance;
- (2) gross premium charged;
- (3) return premium paid, if any;
- (4) rate of premium charged;
- (5) effective date of the contract, and the terms thereof;
- (6) name and address of the insurer;
- (7) name and address of the insured;
- (8) brief general description of the subject of insurance, and where located.

Sec. 8463.12. Surplus Line Broker's Annual Statement: 1. Each surplus line broker shall on or before the fifteenth day of April of each year file with the Commissioner a verified statement of all surplus line insurance transacted during the preceding calendar year. 2. The statement shall be on forms as prescribed and furnished by the Commissioner and shall show:

- (1) Gross amount of premiums for each kind of insurance transacted;
- (2) aggregate gross premiums charged;
- (3) aggregate of returned premiums paid to insureds;
- (4) aggregate of net premiums;
- (5) additional information as required by the Commissioner.

Sec. 8463.13. Tax on Surplus Lines: 1. On or before the fifteenth day of April of each year each surplus line broker shall pay to the tax commissioner of this Territory, through the Commissioner, a tax on premiums. Such tax shall be in the amount of four per cent of all premiums, less return premiums, on surplus line insurance subject to tax transacted by him during the preceding calendar year as shown by his annual statement filed with the Commissioner.

2. If a surplus line policy covers risks or exposures only partially in this Territory the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this Territory.

Sec. 8463.14. Penalty for Failure to File Statement or Remit Tax: If any surplus line broker fails to file his annual statement, or fails to pay the tax provided by section 8463.13, prior to the fifteenth day of May after the tax is due, he shall be liable for a fine of twenty-five dollars for each day of delinquency commencing with the fifteenth day of April. The tax may be collected by distraint, or the tax and fine for failure to pay the tax may be recovered by an action instituted by the Commissioner in any court of competent jurisdiction. The fine for failure to file the annual statement may

be recovered by an action instituted by the Commissioner in any court of competent jurisdiction.

Sec. 8463.15. Suspension or Revocation of License: 1. The Commissioner may suspend or revoke any surplus line broker's license:

- (1) If the broker fails to file his annual statement or to pay the tax as required by sections 8463.12, 8463.13 and 8463.14, or
- (2) If the broker fails to maintain an office in this Territory, or to keep the records, or to allow the Commissioner to examine his records as required by sections 8463.01 through 8463.17, or
- (3) For any of the causes for which a general agent's license may be suspended or revoked.

2. The procedures provided by this chapter for the suspension or revocation of general agents' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

3. No broker whose license has been so revoked shall again be so licensed within one year thereafter, nor until any fines or delinquent taxes owing by him have been paid.

Sec. 8463.16 Exemptions: 1. The provisions of sections 8463.01 through 8463.17 controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurance when so placed by licensed general agents of this Territory:

- (1) Ocean marine insurance.
- (2) Insurance on subjects located, resident, or to be performed wholly outside this Territory, or on vehicles or aircraft owned and principally garaged outside this Territory.
- (3) Insurance of aircraft or cargo of such aircraft, or against liability, other than workman's compensation and employer's liability, arising out of the ownership, maintenance, or use of such aircraft.

2. No provision of this chapter shall be construed as prohibiting any person from procuring any insurance which is not, at the time of procuring such insurance, written by any insurer authorized to transact business in this Territory.

Sec. 8463.17. Legal Process Against Unauthorized Insurer: 1. An unauthorized insurer shall be sued, upon any cause of action arising in this Territory under any contract issued by it as a surplus line contract, pursuant to sections 8463.01 through 8463.17, or otherwise, in the Circuit Courts of this Territory.

2. Any of the following acts in this Territory, effected by mail or otherwise, by an unauthorized foreign or alien insurer:

- (1) the issuance or delivery of contracts of insurance to residents of this Territory or to corporations authorized to do business therein,
- (2) the solicitation of applications for such contracts,
- (3) the collections for such contracts, or
- (4) any other transaction of insurance business,

is equivalent to and shall constitute an appointment by such insurer of the Commissioner and his successor or successors in office, to be its

true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this Territory upon such insurer.

3. Such service of process shall be made by delivering to and leaving with the Commissioner or some person in apparent charge of his office three copies thereof and the payment to him of a fee of five dollars. The Commissioner shall forthwith mail by registered mail one of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, **provided** notice of such service and a copy of the process are sent within ten days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known principal place of business, and the defendant's receipt, or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

4. Service of process in any such action, suit or proceeding shall in addition to the manner provided in paragraph three of this section be valid if served upon any person within this Territory who, in this Territory on behalf of such insurer, is:

- (1) soliciting insurance, or
- (2) making, issuing or delivering any contract of insurance, or
- (3) collecting or receiving any premium, membership fee, assessment or other consideration for insurance;

and a copy of such process is sent within ten days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

5. No plaintiff or complainant shall be entitled to a judgment by default under this section until the expiration of forty days from the date of the filing of the affidavit of compliance.

6. Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

7. Before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding insti-

tuted against it, such unauthorized insurer shall deposit with the clerk of the court in which such action, suit or proceeding is pending cash or securities or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgment which may be rendered in such action; or procure a certificate of authority to transact the business of insurance in this Territory.

8. The court in any action, suit or proceeding, in which service is made in the manner provided in paragraphs three or four of this section may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of paragraph seven of this section and to defend such action.

9. Nothing in paragraph seven of this section is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in paragraphs three or four of this section on the ground either:

- (1) that such unauthorized insurer has not done any of the acts enumerated in paragraph two of this section, or
- (2) that the person on whom service was made pursuant to paragraph four of this section was not doing any of the acts therein enumerated.

10. In any action against an unauthorized foreign or alien insurer upon a contract of insurance issued or delivered in this Territory to a resident thereof or to a corporation authorized to do business therein, if the insurer has failed for thirty days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Such fee shall not exceed twelve and one-half per cent of the amount which the court or jury finds the plaintiff is entitled to recover against the insurer, but in no event shall such fee be less than twenty-five dollars. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

### DEPOSITS OF INSURERS

Sec. 8464.01. Deposits of Insurers: The Treasurer of this Territory shall accept, when made through the Commissioner, deposits of securities or funds by insurers as follows:

- (1) Deposits in amount as required to be made as prerequisite to a certificate of authority to transact insurance in this Territory.
- (2) Deposits of insurers in amount as required to be made by the laws of other states as prerequisite for authority to transact insurance in such other states.
- (3) Deposits in other additional amounts permitted to be made by this chapter.

Sec. 8464.02. Purpose of Deposit: Each such deposit shall be



held by the Treasurer of this Territory in trust for the protection of all policyholders, obligees, or creditors in the United States of the insurer making it.

Sec. 8464.03. Securities Eligible for Deposit: All such deposits shall consist of cash or other assets comprised of securities which are eligible for the investment of the funds of insurers under section 8461.04 representing public obligations.

Sec. 8464.04. Record and Receipt: 1. The Treasurer of this Territory shall keep a record in permanent form of all such funds and securities.

2. The Treasurer of this Territory shall deliver to the insurer a receipt for all funds and securities so deposited by it.

Sec. 8464.05. Transfer of Securities: 1. No transfer of any funds or security so held on deposit, whether voluntary or by operation of law, shall be valid unless approved in writing by the Commissioner and countersigned by the Treasurer of this Territory or by his authorized deputy or agent.

2. A statement of each such transfer shall be entered on the records of the Treasurer of this Territory, showing the name of the insurer from whose deposit such transfer is made, the name of the transferee, the par value of securities having par value, and the asset value of other securities as at last recent valuation.

Sec. 8464.06. Treasurer May Designate Depositary: At the request of an insurer the Treasurer of this Territory may designate any solvent trust company or other solvent financial institution having trust powers, domiciled in the United States, as the said Treasurer's depositary to receive and hold any such deposit. Any deposit so held shall be at the expense of the insurer.

Sec. 8464.07. Responsibility for Deposits: This Territory shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to sections 8464.01 through 8464.12 with the Treasurer of this Territory. The insurer shall be responsible for the safekeeping and return of all funds and securities deposited pursuant to section 8464.06.

Sec. 8464.08. Dividends and Substitutions: While solvent and complying with this chapter an insurer shall be entitled:

- (1) to collect and receive interest and dividends accruing on the securities so held on deposit for its account, and
- (2) from time to time to exchange and substitute for any of such securities, other securities eligible for deposit and of at least equal value.

Sec. 8464.09. Release of Deposit: 1. Any such required deposit or portion thereof shall be released in these instances only:

- (1) Upon extinguishment of all liabilities or portion thereof of the insurer for the security of which the deposit is held, by reinsurance contract or otherwise.
- (2) If any such deposit or portion thereof is no longer required under this chapter.
- (3) Upon proper order of a court of competent jurisdiction the deposit or portion thereof shall be released to the receiver,

conservator, rehabilitator, or liquidator of the insurer for whose account the deposit is held.

2. No such release shall be made except on application to and written order of the Commissioner made upon proof satisfactory to him of the existence of one of such grounds therefor. The Commissioner shall not have any personal liability for any such release of any deposit or part thereof so made by him in good faith.

3. All releases of deposits or any part thereof shall be made to the person then entitled thereto upon proof of title satisfactory to the Commissioner.

Sec. 8464.10. Release of Existing Deposits: Any part of any deposit of an insurer held by the Treasurer of this Territory on the effective date of this chapter which is in amount in excess of the deposit required or permitted to be made by such insurer under this chapter, shall, upon written order of the Commissioner, be released.

Sec. 8464.11. Voluntary Excess Deposit: An insurer may deposit and maintain on deposit with the Treasurer of this Territory through the Commissioner funds and eligible securities in amount exceeding its required deposit under this chapter by not more than one hundred thousand dollars for the purpose of absorbing fluctuations in the value of securities held in its required deposit, and to facilitate the exchange and substitution of such required securities. During the solvency of the insurer any such excess deposit or any part thereof shall be released to it upon its request. During the insolvency of the insurer such excess deposit shall be released only as provided in section 8464.09.

Sec. 8464.12. Not Subject to Levy: No judgment creditor or other claimant of an insurer shall levy upon any deposit held pursuant to sections 8464.01 through 8464.12, or upon any part thereof.

## **GENERAL AGENTS, SUBAGENTS, SOLICITORS, AND ADJUSTORS**

Sec. 8465.01. General Agent Defined: 1. General agent means any person appointed under the provisions of section 8454.03, paragraph one, item (4) and authorized by the insurer to perform all of the following acts in this Territory:

- (1) Solicit applications for insurance;
- (2) Effectuate and countersign insurance contracts, except as to life insurance;
- (3) Collect premiums on insurance applied for or effectuated;
- (4) Appoint subagents and solicitors;
- (5) Any other lawful acts pursuant to the provisions of this chapter.

2. A person may be a general agent for any number of insurers.

3. A domestic insurer may be appointed as a general agent.

4. A domestic insurer appointing subagents or solicitors is required, unless holding a certificate of authority on the day before the effective date of this chapter, to have one or more employees who have passed any general agent's examination required by section 8465.10.

5. The individual, who is in charge of a branch office maintained in

this Territory by a foreign or alien insurer, is required to be a general agent.

6. A general agent may arrange insurance on subjects located, resident or to be performed wholly outside this Territory in either an unauthorized insurer or an authorized insurer for which he is not licensed.

Sec. 8465.02. Subagent Defined: 1. Subagent means any person appointed by a general agent, or by a domestic insurer upon compliance with the provision of section 8465.01, paragraph four, to perform the following acts in this Territory:

- (1) Solicit applications for insurance;
- (2) If authorized so to do, effectuate and countersign insurance contracts, except as to life insurance;
- (3) Collect premiums on insurance so applied for or effectuated;
- (4) Any other lawful acts pursuant to the provisions of this chapter.

2. A subagent must be empowered to appoint solicitors.

3. A person may be a subagent for any number of principals, except that a subagent may not be appointed with respect to more than one life insurer.

Sec. 8465.03. Solicitor Defined: 1. Solicitor means any individual appointed by a general agent or by a subagent or by a domestic insurer upon compliance with the provision of section 8465.01, paragraph four, to perform the following acts in this Territory:

- (1) Solicit applications for insurance;
- (2) Collect premiums in connection therewith;
- (3) Any other lawful acts pursuant to the provisions of this chapter.

2. A solicitor shall not have power to countersign insurance contracts.

3. An individual, who is employed by such principal and devotes full time to clerical work with incidental taking of insurance applications and receiving premiums in the office of the principal, is not deemed to be a solicitor if his compensation neither includes a commission on such business nor is related to the volume of such applications, insurances or premiums.

Sec. 8465.04. Adjuster Defined: 1. Adjuster means any individual who, as an independent contractor or as an employee of an independent contractor, investigates for or reports to or adjusts for his principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured.

2. For the purposes of this chapter, the following individuals are not deemed to be an adjuster:

- (1) An attorney-at-law who adjusts insurance losses from time to time incidental to the practice of his profession;
- (2) An adjuster of marine losses;
- (3) A salaried employee of an insurer or of an adjusting corporation or association owned and controlled by insurers, or of a general agent or of a subagent; and
- (4) An individual who acts for a self-insurer or for an insured which administers its own group insurance contract.

3. Independent adjuster means such an adjuster representing the interests of the insurer.

4. Public adjuster means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

Sec. 8465.05. License Required: 1. No person shall in this Territory act as or hold himself out to be a general agent, subagent, solicitor, or adjuster unless then licensed therefor by this Territory. A regular salaried officer or employee of an authorized insurer shall not be required to be licensed by reason of rendering assistance to, or on behalf of a licensed general agent, subagent or solicitor, **provided** that such salaried officer or employee devotes substantially all of his time to activities other than the solicitation of applications for insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

2. No general agent, subagent, or solicitor shall in this Territory solicit or take applications for, procure, or place for others any class of insurance for which he is not then licensed.

3. Any person violating this section shall be liable to a fine of not to exceed five hundred dollars and imprisonment for not to exceed six months for each factually different violation.

Sec. 8465.06. Controlled Business: 1. The Commissioner shall neither grant nor extend a general agent's, subagent's or solicitor's license to any person, if the Commissioner has reasonable cause to believe that:

(1) During either of the two calendar years immediately preceding the extension date of any such license the aggregate amount of premiums on insurance represented by controlled business exceeded the aggregate amount of premiums on all other insurance business of the licensee; or

(2) The circumstances of the applicant for such license or of any such licensee are such as to cause the Commissioner reasonably to believe that during the twelve-month period immediately following the issuance or extension of the license, if so issued or extended, the aggregate amount of premiums on controlled business would exceed the aggregate amount of premiums on all other insurance business of the applicant or licensee.

2. Controlled business means insurance procured or to be procured by or through such person upon:

(1) His own life, person, property, or risks, or those of his spouse.

(2) The life, person, property, or risks of his employer or his partnership.

Sec. 8465.07. General Qualifications for License: For the protection of the people of this Territory the Commissioner shall not issue or extend any such license except in compliance with sections 8465.01 through 8465.46.

Sec. 8465.08. Applications for License: 1. Application for any such license shall be made to the Commissioner upon forms as prescribed and furnished by him. As a part of or in connection with any such application the applicant shall furnish information concerning

his identity, personal history, experience, business record, and other pertinent facts, as the Commissioner may reasonably require.

2. If the applicant is a partnership or corporation, the application shall show, in addition, the names of all members and officers, and shall designate each individual who is to exercise the powers to be conferred by the license upon such partnership or corporation. The Commissioner shall require each individual to furnish information to him as though for an individual license.

3. Any person willfully misrepresenting any fact required to be disclosed in any such application shall be liable to penalties as provided by this chapter.

Sec. 8465.09. Number of Applications: 1. The filing of personal data by an individual in connection with one application for a general agent's or subagent's license shall be sufficient, regardless of the number of principals to be represented by the licensee or the number of subsequent applications by the same applicant.

2. The Commissioner may, for his information from time to time, require any licensed general agent, subagent, or solicitor to supply him with the information called for in an application for license.

Sec. 8465.10. Examinations for License: 1. Except as provided in section 8465.11 with respect to solicitors, each applicant for license as general agent, subagent, solicitor, or adjuster shall prior to the issuance of any such license, personally take and pass to the satisfaction of the Commissioner an examination given by the Commissioner as a test of his qualifications and competence; but this requirement shall not apply to:

- (1) Applicants for limited licenses, as travel insurance subagents or solicitors only, under section 8465.19;
  - (2) Applicants who at any time within the five-year period next preceding date of application held a license in this Territory which conferred powers comparable to those being applied for;
  - (3) Applicants for license as nonresident agent or broker who have fulfilled qualification requirements in their state of residence and who are deemed by the Commissioner to be fully qualified and competent;
  - (4) Applicants for a general agent's, subagent's, or solicitor's license for life insurance or life and disability insurance who hold the designation Chartered Life Underwriter (C.L.U.) from the American College of Life Underwriters, Incorporated;
  - (5) Applicants for a general agent's, subagent's, or solicitor's license for any class of insurance, except life insurance, who hold the designation Chartered Property and Casualty Underwriter (C.P.C.U.) from the American Institute for Property and Liability Underwriters, Incorporated.
2. Applicants who held a license on the day before the effective date of this chapter shall not, for the purpose of qualifying for the issuance or extension of such license after the effective date of this chapter, be required to take an examination. Such applicants shall certify in writing to the Commissioner, not later than three months

after the effective date of this chapter, the names of all individuals who have exercised the powers conferred by the license for and on behalf of the applicant. Unless, upon order to show cause, the Commissioner determines that any individual so certified did not in fact at any time prior to the effective date of this chapter exercise the powers conferred by the license upon the applicant, the names of such individuals shall be accepted and such individuals shall not thereafter be required to take an examination to qualify for the issuance or extension of such license.

Sec. 8465.11. Solicitor's License - Approved Course of Study in Lieu of Examination: 1. The Commissioner may approve a course of study and training for individuals who desire a solicitor's license. If he agrees in writing with the Commissioner to take such course, such individual thereby agrees that he may be licensed (prior to the completion of the course) only if he intends to and does make the soliciting of insurance his principal vocation and if his knowledge relative to the classes of insurance with which he may deal and the duties and responsibilities of a solicitor and laws of this Territory applicable to a solicitor, in the opinion of the Commissioner, warrants such issuance, and agrees that if he is so licensed prior to the completion of the course, the issuance is subject to the successful continuance and completion of the course and the license may be revoked for failure to do so.

2. The Commissioner may approve a course of study and training, offered by the University of Hawaii, for individuals who desire a solicitor's license. The final examination shall be approved by the Commissioner and the papers and grades of the said examination shall be filed with the Commissioner.

Sec. 8465.12. Scope of Examination: 1. Each such examination shall be as the Commissioner prescribes and shall be of sufficient scope reasonably to test the applicant's knowledge relative to the classes of insurance which may be dealt with under the license applied for, and of the duties and responsibilities of, and laws of this Territory applicable to, such license.

2. The Commissioner is required to prepare and make available to insurers, general agents, subagents, and applicants a printed manual specifying in general terms the subjects which may be covered in any examination for a particular license.

Sec. 8465.13. Examinations - Form, Time, Fee: 1. The answers of the applicant to any such examination shall be written by the applicant under the Commissioner's supervision.

2. The Commissioner shall give examinations at such times and places within this Territory as are reasonably necessary to serve the convenience of both the Commissioner and applicants.

3. The Commissioner may require a waiting period of not more than six months before giving a new examination to an applicant who has failed to pass two previous similar examinations.

4. For each examination taken, the Commissioner shall collect in advance the fee provided in section 8462.01.

Sec. 8465.14. Advisory Board: The Commissioner is authorized in his discretion, to appoint a group of individuals (the group to be known as the Advisory Board) to make recommendations to him concerning any matter relating to the examinations provided for by this chapter. The Commissioner shall try to select a group which represents fairly the insurance industry in this Territory. The Commissioner shall decide how long each individual is to serve on the Advisory Board. Any individual appointed to the Advisory Board shall not be entitled to any compensation for his services.

Sec. 8465.15. General Agent's and Subagent's Qualifications: 1. To qualify for a general agent's or subagent's license an applicant must otherwise comply with this chapter therefor and must:

- (1) Have his domicile in this Territory;
  - (2) Be empowered to be a general agent or subagent, under its members' agreement, if a partnership, or by its articles of incorporation, if a corporation;
  - (3) Have passed, within the period of one year immediately preceding the date of issuance of the license, any examination which is required by section 8465.10;
  - (4) If for a general agent's license, have filed a certificate of appointment by one or more authorized insurers, subject to issuance of the license;
  - (5) If for a subagent's license, as to each authorized insurer have filed a certificate of appointment by a licensed general agent, or a domestic insurer.
2. If the Commissioner finds that the applicant is so qualified and that the license fee has been paid, he shall issue the license. Otherwise, the Commissioner shall refuse to issue the license.

Sec. 8465.16. Appointment of General Agents and Subagents and Revocations: 1. Each insurer on appointing a general agent and each general agent or domestic insurer on appointing a subagent in this Territory shall file written notice thereof in duplicate with the Commissioner on forms as prescribed and furnished by him. If then licensed, or as soon as licensed, the Commissioner shall mail one copy of the appointment to the licensee.

2. Each such appointment shall continue in force until:

- (1) The Commissioner notifies the insurer that the person so appointed is no longer licensed as a general agent by this Territory, or
- (2) The Commissioner notifies the general agent or domestic insurer that the person so appointed is no longer licensed as a subagent by this Territory, or
- (3) the appointment as general agent is revoked by the insurer by written notice of such revocation to the general agent or is terminated by the general agent by written notice of such termination to the insurer, or
- (4) the appointment as subagent is revoked by the general agent or domestic insurer by written notice of such revocation to the subagent or is terminated by the subagent by written notice of such termination to the general agent or domestic insurer.

3. Any person who revokes or terminates shall file at once with the Commissioner a copy of the notice of revocation or termination.

4. Revocation of an appointment by an insurer or a general agent shall be deemed to be effective as of the date designated in the notice as being the effective date if the notice is actually received by the licensee prior to such designated date; otherwise, as of the earlier of the following dates:

- (1) The date such notice of revocation was received by the licensee.
- (2) The date such notice, if mailed to the licensee at his last address of record with the insurer, in due course should have been received by the licensee.

Sec. 8465.17. Contents of Licenses: General agents', subagents' and solicitors' licenses shall be in such form as the Commissioner prescribes.

Sec. 8465.18. Licenses to Partnerships and Corporations: A partnership or a corporation shall not be licensed as a general agent or subagent unless each individual to be empowered and designated in the license to exercise the powers conferred thereby is qualified as though he were the sole individual to be so empowered. Any person so designated or empowered by a corporation or partnership must be a resident of this Territory. Exercise or attempted exercise of such powers by an individual not so designated, with the knowledge or consent of the licensee, shall constitute cause for the revocation or suspension of the license.

Sec. 8465.19. Limited License: 1. The Commissioner may issue limited licenses as travel insurance subagents or solicitors to persons selling travel tickets of a common carrier of persons or property who shall act only as to travel ticket policies of disability insurance or baggage insurance on personal effects.

2. The Commissioner may issue a like limited license to each individual who has charge of vending machines used in this Territory for the effectuation of such travel insurance.

3. The Commissioner may prescribe and furnish such special forms calling for such information as he deems proper in connection with the application for or extension of such licenses.

4. The Commissioner may issue a like limited license to any individual who sells policies of accident and sickness insurance as a promotional device to improve the circulation of a newspaper in this Territory.

Sec. 8465.20. Number of Licenses Required: A general agent, subagent, or solicitor is required to have but one license inclusive of all classes of insurance he is licensed to handle, regardless of the number of principals whom he represents.

Sec. 8465.21. Solicitors - Appointment and Revocation: 1. Each general agent or subagent or domestic insurer on appointing a solicitor in this Territory shall file written notice thereof in duplicate with the Commissioner on forms as prescribed and furnished by him. The Commissioner shall mail one copy of the appointment to the licensee, if then licensed, or as soon as licensed.



2. Each such appointment shall continue in force until:
  - (1) The Commissioner notifies the general agent or subagent or domestic insurer that the person so appointed is no longer licensed as a solicitor by this Territory; or
  - (2) the appointment is revoked by the general agent or subagent or domestic insurer by written notice of such revocation to the solicitor or is terminated by the solicitor by written notice of such termination to the general agent or subagent or domestic insurer.
3. Any person who revokes or terminates shall file at once with the Commissioner a copy of the notice of revocation or termination.
4. Revocation of an appointment by a general agent or subagent or domestic insurer shall be deemed to be effective as of the date designated in the notice as being the effective date, if the notice is actually received by the solicitor prior to such designated date; otherwise, as of the earlier of the following dates:
  - (1) The date such notice of revocation was received by the solicitor.
  - (2) The date such notice, if mailed to the solicitor at his last residence of record with his employer, in due course should have been received by the solicitor.

Sec. 8465.22. Solicitor's Qualifications: The Commissioner shall license as a solicitor an individual only who meets the following requirements:

- (1) Is domiciled in this Territory.
- (2) Is to represent only one licensed general agent, or subagent or domestic insurer except that a solicitor, representing a general agent or subagent or domestic insurer and licensed for life insurance only or life and disability insurance, may represent one other general agent or subagent or domestic insurer for the solicitation of other classes of insurance. Insurance used to provide funds to cover burial expenses only, payable to a funeral director, shall not be construed as the same class of insurance as life insurance for the purposes of this item (2).
- (3) Has:
  - a. As to applicants not following the approved course of study provided for in section 8465.11, passed the examination provided for in section 8465.10.
  - b. As to applicants following the approved course of study provided for in paragraph one of section 8465.11, reached a degree of competence which in the Commissioner's opinion warrants the issuance of a license.
  - c. As to applicants following the approved course of study provided for in paragraph two of section 8465.11, passed the final examination within the immediately-preceding year.
- (4) Is otherwise qualified under this chapter.

Sec. 8465.23. Solicitor's License: The Commissioner shall issue a solicitor's license only upon application by the applicant and with the consent of the general agent or subagent or domestic insurer to

be represented, upon such forms as the Commissioner shall prescribe and furnish. Upon termination of such representation the license shall be returned to the Commissioner for cancellation or modification.

Sec. 8465.231. Responsibility of Principal. All business transacted by a solicitor under his license shall be in the name of the general agent or subagent by whom he is appointed, and the general agent or subagent shall be responsible for all acts or omissions of the solicitor within the scope of such appointment.

Sec. 8465.24. Nonresident Agent or Broker: 1. The Commissioner may license as a nonresident agent or broker for all classes of insurance except life, an individual who is otherwise qualified therefor under this chapter but who is not a resident of or domiciled in this Territory, if by the laws of the state or province of his residence or domicile a similar privilege is extended to residents of this Territory.

2. Any such licensee shall be subject to the same obligations and limitations, and to the Commissioner's supervision as though resident or domiciled in this Territory.

3. No such individual shall be so licensed unless he files the power of attorney provided for in section 8465.25.

Sec. 8465.25. Process Against Nonresident Licensees: 1. Each licensed nonresident agent or broker shall appoint the Commissioner as his attorney to receive service of legal process issued against the agent or broker in this Territory upon causes of action arising within this Territory. Service upon the Commissioner as attorney shall constitute effective legal service upon the agent or broker.

2. The appointment shall be irrevocable for as long as there could be any cause of action against the agent or broker arising out of his insurance transactions in this Territory.

3. Triplicate copies of such legal process against such agent or broker shall be served upon the Commissioner either by a person competent to serve a summons, or through registered mail. At the time of such service the plaintiff shall pay to the Commissioner five dollars, taxable as costs in the action.

4. Upon receiving such service, the Commissioner shall forthwith send one of the copies of the process, by registered mail with return receipt requested, to the defendant agent or broker at his last address of record with the Commissioner.

5. The Commissioner shall keep a record of the day and hour of service upon him of all such legal process. No proceedings shall be had against the defendant agent or broker, and such defendant shall not be required to appear, plead, or answer until the expiration of forty days after the date of service upon the Commissioner.

Sec. 8465.26. Limitations upon Nonresident Agent or Broker: A nonresident agent or broker is authorized to place insurance on a subject of insurance located in this Territory, only under the following conditions:

- (1) The insured, if an individual, is not a resident of this Territory, or, if a partnership, each partner is not a resident of

this Territory, or, if a corporation, is a foreign corporation within the meaning of section 8391;

- (2) Any negotiation, between the nonresident agent or broker and the insured, leading up to the placement of the insurance, has taken place outside this Territory;
- (3) The insurance is placed through a licensed general agent in this Territory of an authorized insurer.
- (4) The provisions of items (1) and (2) shall not be applicable to insurance of aircraft or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance, or use of such aircraft.

Sec. 8465.27. Qualifications for Adjuster's License: The Commissioner shall license as an adjuster only an individual who has otherwise complied with sections 8465.01 through 8465.46 therefor and who has furnished evidence satisfactory to the Commissioner that he is qualified as follows:

- (1) Is domiciled in this Territory, or is domiciled in a state which will permit residents of this Territory to act as adjusters in such other state.
- (2) Has had experience or special education or training with reference to the handling of loss claims under insurance contracts, of sufficient duration and extent reasonably to make him competent to fulfill the responsibilities of an adjuster.
- (3) Has successfully passed any examination required under section 8465.10.
- (4) If for a public adjuster's license, has filed the bond required by section 8465.32.

Sec. 8465.28. Separate Licenses: The Commissioner may license an individual as an independent adjuster or as a public adjuster, and separate licenses shall be required for each type of adjuster. An individual may be concurrently licensed under separate licenses as an independent adjuster and as a public adjuster. The full license fee shall be paid for each such license.

Sec. 8465.29. Form of Adjuster's License: The Commissioner shall prescribe the form of adjuster's license, and which shall contain:

- (1) The name of the adjuster, and the address of his place of business;
- (2) A statement as to whether he is so licensed as an independent adjuster or as a public adjuster;
- (3) Date of issuance of the license;
- (4) Other statements proper to the purposes of the license.

Sec. 8465.30. Powers Conferred By An Adjuster's License: 1. An adjuster has authority under his license only to investigate for or report to or adjust for his principal relative to claims as limited under section 8465.04 on behalf only of the insurers if licensed as an independent adjuster, or on behalf only of insureds if licensed as a public adjuster.

2. An adjuster licensed concurrently as both an independent and a public adjuster is not permitted to represent both the insurer and the insured in the same transaction.

Sec. 8465.31. May Adjust Without a License: 1. On behalf of and as authorized by an insurer, a general agent may from time to time act as an adjuster and investigate and report upon claims without being required to be licensed as an adjuster. On behalf of and as authorized by the general agent with respect to whom he is licensed as subagent, a subagent may from time to time act as an adjuster and investigate and report upon claims without being required to be licensed as an adjuster.

2. An adjuster who is a general agent or a subagent is not permitted to adjust or cause the adjustment of any loss where his remuneration for the sale of insurance is primarily dependent upon the adjustment of the loss. This paragraph two shall not be applicable to any general agent or subagent whose remuneration for the sale of insurance, on the day preceding the effective date of this chapter, was primarily dependent upon the adjustment of losses, or to any general agent or subagent of an insurer who, on the day preceding the effective date of this chapter, was transacting insurance where the general agent's or subagent's remuneration for the sale of such insurance was primarily dependent upon the adjustment of losses.

3. A license shall not be required of a nonresident independent adjuster for the adjustment in this Territory of a single loss, or of more than one loss arising out of a catastrophe common to all such losses.

Sec. 8465.32. Public Adjuster's Bond: 1. Prior to the issuance of a license as a public adjuster, the applicant therefor shall file with the Commissioner and shall thereafter maintain in force while so licensed a surety bond in favor of this Territory, executed by an authorized corporate surety approved by the Commissioner, in the amount of five thousand dollars. The bond may be written without an expiration date and total aggregate liability on the bond may be limited to the payment of five thousand dollars. The bond shall be contingent on the accounting by the adjuster to any insured whose claim he is handling, for moneys or any settlement received in connection therewith.

2. Any such bond shall remain in force until the surety is released from liability by the Commissioner, or until cancelled by the surety. Without prejudice to any liability accrued prior to cancellation, the surety may cancel a bond upon sixty days advance notice in writing filed with the Commissioner.

3. The licensee may, in lieu of such bond, during the existence of such license maintain on deposit with the Commissioner a like amount in cash or securities approved by the Commissioner. Such deposit shall be held for the same purpose and upon the same conditions as such bond.

4. Such bond shall be required of any adjuster acting as a public adjuster as of the effective date of this chapter, or thereafter under any unexpired license heretofore issued.

Sec. 8465.33. Report of Losses: 1. Every adjuster who investigates any fire loss claim under any insurance contract covering property located in this Territory, shall promptly report in writing and in triplicate to the Commissioner any facts or circumstances found and from which he believes fraud has been committed or attempted. 2. Upon completing the adjustment of any fire loss requiring claim payments aggregating one hundred dollars or more, for damage to or destruction of property located in this Territory, under any policy or policies issued by an unauthorized insurer, an adjuster shall promptly report the details thereof to the Commissioner, upon forms prescribed and furnished by him. Such report shall state the names of the insurers and insured involved, amount of insurance on the property carried in each insurer, the amount of the claim and the amount paid by each insurer on account thereof, the circumstances of the loss, and other information as the Commissioner requests. 3. Upon the Commissioner's request each adjuster shall in similar manner report to the Commissioner relative to losses and claims investigated or adjusted, and arising under other insurance contracts issued by unauthorized insurers.

Sec. 8465.34. Place of Business: Every licensed general agent, subagent and adjuster, shall have and maintain in this Territory, or, if a nonresident agent or broker, in the state of his domicile, a place of business accessible to the public. Such place of business shall be that wherein the licensee principally conducts transactions under his licenses. The licensee shall promptly notify the Commissioner of change of business address. The place of business of a subagent shall be obviously separate from that of any general agent who appointed him.

Sec. 8465.35. Records of General Agent, Subagent, Adjuster: 1. Every general agent, subagent, or adjuster shall keep a record of all transactions consummated under his license. This record shall be in organized form according to class of insurance and shall include:

- (1) If a general agent or subagent:
  - a. A record of each insurance contract procured, issued, or countersigned, together with the names of the insurers and insureds, the amount of premium paid or to be paid, or the basis of the premium or consideration paid or to be paid, and a statement of the subject of the insurance.
  - b. The names of any other licensees from whom business is accepted, and of persons to whom commissions or allowances of any kind are promised or paid.
- (2) If an adjuster, a record of each investigation or adjustment undertaken or consummated, and a statement of any fee, commission, or other compensation received or to be received by the adjuster on account of such investigation or adjustment.
- (3) Such other and additional information as shall be customary, or as may reasonably be required by the Commissioner.

2. All such records as to any particular transaction shall be kept available and open to the inspection of the Commissioner at any business time during the five years immediately after the date of the completion of such transaction.

3. The provisions of this section shall not apply to life or disability insurance if the records required of such insurance are customarily maintained in the offices of the insurer.

Sec. 8465.36. Reporting and Accounting for Premiums: 1. Every licensee under this chapter shall have the responsibility of a trustee for all funds received or collected as such licensee and shall not, without the written consent of his principal, mingle any such funds with his own funds or with funds held by him in any other capacity. Such licensee shall not be required to maintain a separate bank account for the funds of each principal, if and as long as the funds so held for such principal are reasonably ascertainable from the books of account and records of such licensee.

2. Any such licensee who, not being lawfully entitled thereto, diverts or appropriates such funds or any portion thereof to his own use, shall be guilty of embezzlement, and shall be punished as provided in the criminal statutes of this Territory.

Sec. 8465.37. Sharing Commissions: 1. No insurer, general agent, subagent or solicitor shall compensate or offer to compensate in any manner any person, other than those specified in this paragraph one, for procuring or in any manner helping to procure applications for or to place insurance in this Territory. This provision shall not prohibit the payment of compensation not contingent upon volume of the business transacted, in the form of salaries to the regular employees of any such licensee.

- (1) An insurer may so compensate only the following:
  - a. A licensed general agent appointed by it;
  - b. A licensed subagent appointed by it in accordance with the provisions of section 8465.02;
  - c. A licensed solicitor appointed by it in accordance with the provisions of section 8465.03.
- (2) A general agent may so compensate only the following:
  - a. Licensed subagents appointed by him;
  - b. Licensed solicitors appointed by him;
  - c. Any general agent who is licensed in this Territory for the same class of insurance;
  - d. Any licensed nonresident agent or broker.
- (3) A subagent may so compensate only licensed solicitors appointed by him.
- (4) A surplus line broker may so compensate only the following:
  - a. Licensed subagents appointed by him;
  - b. Licensed solicitors appointed by him;
  - c. Any general agent who is licensed in this Territory for the class of insurance involved.

2. No such licensee shall be promised or allowed any compensation on account of the procuring of applications for or the placing of classes of insurance which he himself is not then licensed to procure or place.

3. The Commissioner may suspend or revoke the licenses of all licensees participating in any violation of this section.

Sec. 8465.38. Extension of Licenses: No license shall contain an expiration date, but all licenses must be extended from time to time in order to continue to be valid. When the Commissioner issues or extends a license, he shall determine the date prior to which the license must be extended and shall so notify the licensee in writing. This date is called the extension date. As to every license in force on the day before the effective date of this chapter, the first extension date after such effective date shall be any date not less than one year and not more than four years after date of issuance, and any subsequent extension date shall be any date not less than one year and not more than three years after date of extension. As to every other license, the extension date shall be any date not less than one year and not more than three years after date of issue or extension. If the licensee is qualified therefor, the license shall be extended.

Sec. 8465.39. Temporary Licenses: 1. The Commissioner may issue a general agent's or subagent's or solicitor's temporary license in the following circumstances:

- (1) To the surviving spouse or next of kin or to the administrator or executor of a licensed general agent or subagent or solicitor becoming deceased.
- (2) To the spouse, next of kin, employee, or legal guardian of a licensed general agent or subagent or solicitor becoming disabled because of sickness, insanity, or injury.
- (3) To the spouse, next of kin, or employee of a licensed general agent or subagent or solicitor who is drafted or volunteers for service in the Armed Services of the United States.
- (4) To a member of a partnership or officer or employee of a corporation licensed as general agent or subagent upon the death or termination of service of an individual designated in the partnership's or corporation's license to exercise powers thereunder.

2. An individual to be eligible for any such temporary license must be qualified as for a regular license except as to experience, special education, training, or the taking of an examination.

3. Any fee paid to the Commissioner for issuance of a temporary license as specified in section 8462.01 shall be credited toward the fee required for a regular license if issued to replace the temporary license prior to the expiration of such temporary license.

Sec. 8465.40. Temporary Licenses - Duration, Powers: 1. No such temporary license shall be effective for more than six months, and the Commissioner may refuse so to license again any person who has previously been so licensed. The Commissioner may in his discretion renew such license for any period but not to exceed a total period of eighteen months.

2. Any temporary license is permitted to be issued only for a class of insurance for which the applicant's predecessor was licensed.

Sec. 8465.41. Denial, Suspension, Revocation of Licenses: 1. The Commissioner may suspend, revoke, or refuse to extend any

license issued under sections 8465.01 through 8465.46 or any surplus line broker's license for any cause specified in any other provision of this chapter, or for any of the following causes:

- (1) For any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner.
  - (2) If the licensee wilfully violates or knowingly participates in the violation of any provision of this chapter.
  - (3) If the licensee has obtained or attempted to obtain any such license through wilful misrepresentation or fraud, or has failed to pass any examination required by sections 8465.10 and 8465.11.
  - (4) If the licensee has misappropriated or converted to his own use or has illegally withheld moneys required to be held in a fiduciary capacity.
  - (5) If the licensee has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction.
  - (6) If the licensee has been guilty of any unfair practice or fraud as defined in sections 8474.01 through 8474.06.
  - (7) If the licensee has been convicted, by final judgment, of a felony.
  - (8) If in the conduct of his affairs under the license, the licensee has shown himself to be a source of injury and loss to the public.
  - (9) If the licensee has dealt with, or attempted to deal with, insurance or to exercise powers relative to insurance outside the scope of his licenses.
2. The license of any partnership or corporation may be so suspended, revoked, or refused for any of such causes as relate to any individual designated in the license to exercise its powers.
3. The holder of any license which has been revoked or suspended shall surrender the license certificate to the Commissioner at the Commissioner's request.

Sec. 8465.42. Procedure for Refusal, Suspension, or Revocation: The Commissioner may suspend, revoke, or refuse to extend any such license for any cause specified in this Chapter:

- (1) By order given to the licensee not less than fifteen days prior to the effective date thereof, subject to the right of the licensee to have a hearing as provided in section 8453.10 and pending such hearing the license shall be suspended; or
- (2) By an order on hearing made as provided in section 8453.17 effective as of ten days after date of the giving of the order, subject to the right of the licensee to appeal to the Circuit Court of the First Judicial Circuit of this Territory as provided in this chapter.

Sec. 8465.43. Duration of Suspension: Every order suspending any such license shall specify the period during which suspension will be effective, and which period shall in no event exceed one year.



Sec. 8465.44. **Power to Fine:** After hearing and in addition to or in lieu of the suspension, revocation, or refusal to extend any such license, the Commissioner may levy a fine upon the licensee in amount not less than twenty-five dollars and not more than five hundred dollars. The order levying such fine shall specify the period within which the fine shall be fully paid, and which period shall be not less than thirty nor more than forty-five days from the date of the order. Upon failure to pay any such fine when due, the Commissioner shall revoke the licenses of the licensee if not already revoked, and the fine shall be recovered in a civil action brought in behalf of the Commissioner by the Attorney General. Any fine so collected shall be paid by the Commissioner to the Treasurer of this Territory for the account of the general fund.

Sec. 8465.45. **Reinstatement or Re-licensing:** The Commissioner shall not reinstate the license of or re-license any licensee or former licensee as to whom a license has been suspended, revoked, or extension refused, until any cause for the suspension, revocation, or refusal of such license is no longer existing, or until any fine theretofore levied upon the licensee pursuant to sections 8465.44 and 8465.46 has been fully paid.

Sec. 8465.46. **Fine in Lieu:** 1. Upon the hearing of an appeal from an order suspending, revoking, or refusing to extend any license issued under sections 8465.01 through 8465.46, the court, if it finds that the licensee is guilty of violation of the law and if it deems the suspension, revocation, or refusal too severe a penalty under the facts as found, may impose a fine of not more than five hundred dollars in lieu thereof, and payment of such fine within ten days thereafter shall reinstate, restore or extend, the license.

2. If it appears that a license of the licensee has theretofore been suspended, revoked, or refused for a similar offense, the court shall not have jurisdiction to impose a fine in lieu of the action required by the order appealed from.

## THE INSURANCE CONTRACT

Sec. 8466.01. **Scope of Sections 8466.01 Through 8466.36:** The applicable provisions of sections 8466.01 through 8466.36 shall apply to all insurances except:

- (1) Ocean marine insurance, and
- (2) Life or disability insurances the contracts of which are neither issued for delivery in this Territory nor delivered in this Territory, and
- (3) Surplus line insurance, as defined by section 8463.04.

Sec. 8466.02. **Power to Contract:** 1. Any person of competent legal capacity may contract for insurance.

2. A minor of the age of fifteen years or more, as determined by the nearest birthday, shall be deemed to be competent to contract for any form of life or disability insurance on his own life or body, for his own benefit or for the benefit of his father, mother, spouse, child, brother, sister, or grandparent, or, subject to the provisions of any policy, to surrender, make loans upon or assign any insurance issued

at any time upon his life or body, and to give a valid discharge for any benefit accruing or for any money payable under the contract, and to exercise any of the rights or privileges reserved to the insured in and by any such policy of insurance; except, that such minor, not otherwise emancipated, shall not be bound by any unperformed agreement to pay, by a promissory note or otherwise, any premium on any such insurance contract.

3. Where any form of life or disability insurance is issued at any time upon the life or body of a minor, unless the policy shall otherwise provide, or unless all of the premiums on the said policy shall be paid by the minor, then until such minor shall have reached the age of twenty years, the father of such minor, or in the event of the death of the father or the divorce of the parents and the custody of such minor being awarded to the mother, then the mother of such minor shall be authorized to surrender, make loans upon or assign such insurance and to give a valid discharge for any benefit accruing or for money payable under the contract, and to exercise any of the rights or privileges reserved to the insured in and by any such policy of insurance without the order or intervention of any court, or the appointment of a legal guardian, and no insurer shall have any responsibility for or be required to see to the application of the proceeds paid in accordance herewith.

4. Unless at the time of issuance, the policy of insurance shall provide otherwise, the ownership of, or property interest of the insured in, any policy of life insurance issued on the life of any minor shall be deemed to be in said minor and shall continue in said minor unless and until the same shall have lapsed or shall have been surrendered, assigned or otherwise acted upon in accordance with the provisions hereof while the minor is under the age of twenty years, or unless and until after said insured shall have reached the age of twenty years the same shall have lapsed or shall have been surrendered, assigned, or otherwise acted upon by said insured.

**Sec. 8466.03. Insurable Interest Required - Personal Insurances:**

1. Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

2. If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

3. Insurable interest as used in this section and in section 8466.06 includes only interests as follows:

- (1) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection.

- (2) In the case of other persons, a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured.
- (3) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in such shares, has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

**Sec. 8466.04. Insurable Interest Required - Property Insurances:**

1. No contract of insurance on property or of any interest therein or arising therefrom shall be enforceable except for the benefit of persons having an insurable interest in the things insured.
2. Insurable interest as used in this section means any lawful and substantial economic interest in the safety or preservation of the subject of the insurance free from loss, destruction, or pecuniary damage.

**Sec. 8466.05. Interest of the Insured:** When the name of a person intended to be insured is specified in the policy, such insurance can be applied only to his own proper interest. This section shall not apply to life or disability insurances.

**Sec. 8466.06. Application for Insurance Required:** No life or disability insurance contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance as defined in this chapter, shall be made or effectuated unless at the time of the making of the contract the individual insured, being of competent legal capacity to contract, in writing applies therefor or consents thereto, except in the following cases:

- (1) A spouse may effectuate such insurance upon the other spouse.
- (2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to the minor.

**Sec. 8466.07. Alteration of Application:** 1. Any written application for insurance which is attached to and made part of the insurance contract shall be altered solely by the applicant or by his written consent, except that insertions may be made by the insurer for administrative purposes in such manner as to indicate clearly that the insertions are not to be ascribed to the applicant.

2. No person shall falsify or cause to be falsified, in any application for insurance, any answer to a question propounded to the applicant therein, or insert or cause to be inserted therein, except as provided in paragraph one of this section, any statement to be made by such applicant other than the statement made by the applicant.

3. Any insurer issuing an insurance contract upon an application which has been unlawfully altered by its officer, employee, or agent shall not have available in any action arising out of such contract, any defense which is based upon the fact of such alteration, or as to any item in the application which was so altered.

Sec. 8466.08. Application as Evidence: 1. No application for the issuance of any life insurance contract shall be admissible in evidence in any action relative to such contract, unless a true copy of the application was attached to or otherwise made a part of the policy when issued and delivered. A photostatic or other process copy or reduction of the application or medical examination, if any, may be so used if clearly legible. This paragraph shall not apply to contracts of industrial life insurance.

2. If any policy of life or disability insurance delivered in this Territory is reinstated or renewed, and the insured or the beneficiary or assignee of the policy makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within thirty days after receipt of such request at its home office or at any of its branch offices, deliver or mail to the person making such request, a copy of such application. If such copy is not so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving the policy or its reinstatement or renewal.

3. As to classes of insurance other than life insurance, no application for insurance signed by or on behalf of the insured shall be admissible in evidence in any action between the insured and the insurer arising out of the policy so applied for, if the insurer has failed, within thirty days after receipt by the insurer of written demand therefor by or on behalf of the insured, to furnish to the insured a copy of such application reproduced by any legible means.

Sec. 8466.09. Warranties, Misrepresentations in Applications: All statements or descriptions in any application for an insurance policy or in negotiations therefor, by or in behalf of the insured, shall be deemed to be representations and not warranties. A misrepresentation, unless it was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer, shall not prevent a recovery on the policy.

Sec. 8466.10. Standard Form Fire Insurance Policy: 1. The standard form fire insurance policy as authorized and in effect in the State of New York on December 31, 1943, is established as the standard form fire insurance policy for this Territory, and no fire insurance policy shall be delivered or issued for delivery in this Territory in any other than the said standard form with such additions or modifications as are allowed or required by the provisions of this chapter. This section is not applicable to inland marine policies or policies written upon motor vehicles or aircraft.

2. The Commissioner shall at all times keep on file in his office a copy of said standard form fire insurance policy certified by the Superintendent of Insurance of the State of New York.

3. Nothing herein shall affect the validity of any policy otherwise valid or of any claim thereunder against an insurer.
4. No part of the standard form fire insurance policy shall be omitted therefrom.
5. Any policy which, in addition to coverage against perils of fire and lightning, includes coverage against other perils, need not comply with all of the provisions of the standard form fire insurance policy if the policy provisions with respect to the perils of fire and lightning are the exact provisions of the standard form fire insurance policy and if the premium for the perils of fire and lightning is separately stated.
6. The following additions to or modifications of the standard form fire insurance policy are permitted:
  - (1) An insurer may use in its policies its name, location of its principal office and date of incorporation, the amount of its paid-in capital stock, the amount of subscribed capital if separately stated, the names of its officers and agents, the number and date of the policy, or the words:  
"This policy shall not be valid until countersigned by the duly authorized manager or agent of the company at...".
  - (2) The pages of the standard policy may be renumbered and rearranged for convenience in the preparation of individual contracts and to provide space for the description of the property insured, the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon, and such other data as may be conveniently included for duplication on daily reports or office records, and there may be substituted for the word company a more accurate descriptive term for the type of insurer.
  - (3) An insurer organized under special charter provisions may so indicate upon its policy and may add a statement of the plan under which it operates in this Territory.
  - (4) An insurer may use in its policies written, typewritten or printed forms of description and specifications of the property insured.
  - (5) An insurer may use in its policies with the approval of the Commissioner, if the same are not already included in the standard policy, any provisions which any insurer is required by law to insert in its policies not in conflict with the provisions of the standard policy. The provisions shall be printed apart from the other conditions, agreements or provisions of the policy under separate title as follows: "Provisions required by law to be inserted in this policy".
  - (6) An insurer may use appropriate forms of additional contracts, riders, or endorsements adding to or modifying the provisions in the standard policy, or insuring against any additional perils which may by law be the subject of insurance, or insuring against indirect or consequential loss or damage. Such other perils may be perils excluded from coverage in the standard policy. Such form of contracts, riders and endorsements may contain provisions or stipulations inconsistent

with the standard policy if such provisions and stipulations are applicable only to such additional coverage or other additional peril or perils insured against, and shall state separately the premium, if any, for the peril or perils specified in the contracts, riders, or endorsements, and provide for cancellation as to the perils, if actually removed, without prejudice to the remaining insurance.

7. A policy issued by a mutual insurer shall contain in the body of the policy the total amount for which the insured may be liable under the charter or articles of the insurer.

8. In the event of any conflict between the provisions of this section and other provisions of this chapter, the provisions of this section shall govern.

Sec. 8466.11. Content of Policies in General: 1. The written instrument, in which a contract of insurance is set forth, is the policy:

2. A policy shall specify:

- (1) The names of the parties to the contract. The insurer's name shall be clearly shown in the policy.
- (2) The subject of the insurance.
- (3) The risks insured against and the amount of insurance.
- (4) The time at which the insurance thereunder takes effect, and the period during which the insurance is to continue or the method of determining such period.
- (5) A statement of the premium or premium rate.
- (6) The conditions pertaining to the insurance.

3. If under the contract the exact amount of premiums is determinable only at termination of the contract or at periodic intervals of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid shall be furnished any policy examining bureau having jurisdiction or to the insured upon request.

4. This section shall not apply to surety insurance or to group insurance contracts.

Sec. 8466.12. Additional Contents: A policy may contain additional provisions, which are not inconsistent with this chapter, and which are:

- (1) required to be so inserted by the laws of the insurer's state of domicile; or
- (2) appropriate or necessary, on account of the manner in which the insurer is constituted or operated, to state the rights and obligations of the parties to the contract.

Sec. 8466.13. Charter, By-Law Provisions: No policy shall contain any provision purporting to make any portion of the charter, by-laws, or other constituent document of the insurer a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid.

Sec. 8466.14. Stated Premium Must Include All Charges: 1. The premium stated in the policy shall be inclusive of all fees, charges, premiums, or other consideration charged for the insurance or for the procurement thereof. This paragraph shall not apply to surety or group insurance contracts.

2. No insurer or its officer, employee, agent, solicitor, or other representative shall charge or receive any fee, compensation, or consideration for insurance which is not included in the premium specified in the policy.

Sec. 8466.15. Must Contain Entire Contract: 1. No agreement in conflict with, modifying, or extending any contract of insurance shall be valid unless in writing and made a part of the policy.

2. No insurer or its representatives shall make any insurance contract or agreement relative thereto other than as is plainly expressed in the policy.

3. The requirements of this section shall not apply to the granting of additional benefits to all policyholders of an insurer, or a class or classes of them, which do not require increases in premium rates or reduction or restrictions of coverage.

Sec. 8466.16. Limiting Actions, Jurisdictions: 1. No insurance contract delivered or issued for delivery in this Territory and covering subjects located, resident, or to be performed in this Territory, shall contain any condition, stipulation, or agreement:

- (1) requiring it to be construed according to the laws of any state or country except as necessary to meet the requirements of the motor vehicle financial responsibility laws or compulsory disability benefit laws of such other state or country; or
  - (2) depriving the courts of this Territory of the jurisdiction of action against the insurer; or
  - (3) limiting right of action against the insurer to a period of less than one year from the time when the cause of action accrues in connection with all insurances other than property and marine and transportation insurances. In contracts of property insurance, or of marine and transportation insurance, such limitation shall not be to a period of less than one year from the date of the loss.
2. Any such condition, stipulation, or agreement in violation of this section shall be void, but such voiding shall not affect the validity of the other provisions of the contract.

Sec. 8466.17. Execution of Policies: 1. Every insurance contract shall be executed in the name of and on behalf of the insurer by its officer, employee, or representative duly authorized by the insurer.

2. A facsimile signature of any such executing officer, employee, or representative may be used in lieu of an original signature.

3. No insurance contract heretofore or hereafter issued and which is otherwise valid shall be rendered invalid by reason of the apparent execution thereof on behalf of the insurer by the imprinted facsimile signature of any individual not authorized so to execute as of the date of the policy, if the policy is countersigned with the original signature of an individual then so authorized to countersign.

Sec. 8466.18. Liability of Agents on Binder: The Commissioner may suspend or revoke the license of any agent issuing or purporting to issue any binder as to any insurer named therein as to which he is not then authorized so to bind.

Sec. 8466.19. Underwriters' and Combination Policies: 1. Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policies shall plainly show the true name of the insurer.

2. Two or more authorized insurers may, with the Commissioner's approval, issue a combination policy which shall contain provisions substantially as follows:

- (1) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentage or amounts thereof, aggregating the full amount of insurance under the policy.
  - (2) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.
3. This section shall not apply to co-surety obligations.

Sec. 8466.20. Delivery of Policy: 1. Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance.

2. In event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledges of any motor vehicle or aircraft, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle or aircraft is insured, a duplicate of such policy, or memorandum thereof setting forth the type of coverage, limits of liability, premiums for the respective coverages, and duration of the policy, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a conspicuous statement of such fact shall be printed, written or stamped on the face of such duplicate policy or memorandum.

Sec. 8466.21. Renewal of Policy: Any insurance policy terminating by its terms at a specified expiration date and not otherwise renewable, may be renewed or extended at the option of the insurer, upon a currently authorized policy form and at the premium rate then required therefor, for a specific additional period or periods by a certificate or by endorsement of the policy, and without requiring the issuance of a new policy.

Sec. 8466.22. Retroactive Annulment of Liability Policies Prohibited: No insurance contract insuring against loss or damage through legal liability for the bodily injury or death by accident of any individual, or for damage to the property of any person, shall be retroactively annulled by any agreement between the insurer and insured after the occurrence of any such injury, death, or damage for which the insured may be liable, and any such annulment attempted shall be void.



Sec. 8466.23. Dividends Payable to the Real Party: 1. Every insurer issuing participating policies, shall pay dividends, unused premium refunds or savings distributed on account of any such policy, only to the real party in interest entitled thereto as shown by the insurer's records, or to any person to whom the right thereto has been assigned in writing of record with the insurer, or given in the policy by such real party in interest.

2. Any person who is shown by the insurer's records to have paid for his own account, or to have been ultimately charged for, the premium for insurance provided by a policy in which another person is the nominal insured, shall be deemed such real party in interest proportionate to premium so paid or so charged. This paragraph shall not apply as to any such dividend, refund, or distribution which would amount to less than one dollar.

3. This section shall not apply to contracts of group life insurance, group annuities, or group disability insurance, nor to any policy which contains a provision specifying to whom the dividend shall be paid, nor to policies issued prior to the effective date of this chapter.

Sec. 8466.24. Intervening Breach: If any breach of a warranty or condition in any insurance contract occurs prior to a loss under the contract, such breach shall not avoid the contract nor avail the insurer to avoid liability, unless the breach exists at the time of the loss.

Sec. 8466.25. Assignment of Policies: 1. A policy may be assignable or not assignable, as provided by its terms.

2. Subject to the terms of the policy relating to its assignability, any policy, whether heretofore or hereafter issued, under the terms of which the beneficiary may be changed upon the sole request of the insured, may be assigned either by pledge or transfer of title, by an assignment executed by the insured alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

Sec. 8466.26. Payment Discharges Insurer: Whenever the proceeds of, or payments under, a policy or contract heretofore or hereafter issued by a life or disability insurer, become payable in accordance with the terms of such policy or contract, or the exercise of any right or privilege thereunder and the insurer makes payments thereof in accordance with the terms of the policy or in accordance with written assignment thereof pursuant to section 8466.25, the person then designated in the policy or by such assignment as being entitled thereto, shall be entitled to receive such proceeds or payments and to give full acquittance therefor, and such payment shall fully discharge the insurer from all claims under the policy unless, before payment is made, the insurer has received at its home office, written notice by or on behalf of some other person that such other person claims to be entitled to such payment or some interest in the policy.

Sec. 8466.27. Minor May Give Acquittance: Any minor domiciled in this Territory who has attained the age of eighteen years, shall be deemed competent to receive and to give full acquittance and discharge for a payment or periodical payments in aggregate amount not exceeding two thousand dollars in any one year, made by a life insurer as benefits payable to a minor in compliance with the provisions of an insurance policy, annuity contract, or settlement agreement. No such minor shall be deemed competent to alienate the right to, or to anticipate, such payments. This section shall not be deemed to restrict the rights of minors insured pursuant to section 8466.02.

Sec. 8466.28. Exemption of Proceeds - Disability: The proceeds of all contracts of disability insurance and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance or annuity contracts heretofore or hereafter effected shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use.

Sec. 8466.29. Exemption of Proceeds - Life, Endowment and Annuity: 1. All proceeds payable because of the death of the insured and the aggregate net cash value of any or all life and endowment policies and annuity contracts payable to a wife or husband of the insured, or to a child, parent or other person dependent upon the insured, whether the power to change the beneficiary is reserved to the insured or not, and whether the insured or his estate is a contingent beneficiary or not, shall be exempt from execution, attachment, garnishment or other process, for the debts or liabilities of the insured incurred subsequent to May 19, 1939, except as to premiums paid in fraud of creditors within the period limited by law for the recovery thereof.

2. When the terms of any life or endowment policy or annuity contract require that the proceeds thereof be retained by the insurer upon the death of the insured, or other maturity of the policy or contract, for payment to any beneficiary other than the insured in accordance with a settlement plan selected by the insured, such beneficiary shall have no right or power, and he shall not be permitted by any insurer, to commute, encumber, assign or otherwise anticipate his interests under the plan if such right or power is expressly denied him by the terms of the contract or policy. If such beneficiary under the settlement plan is or was the wife or husband of the insured, or a child, parent or other person dependent upon the insured, his interests thereunder, in any case and irrespective of whether or not the contract or policy permits or denies him the right or power to commute, encumber, alienate, assign or otherwise anticipate, shall be exempt from execution, attachment, garnishment or other process for his debts or liabilities incurred after the effective date of this chapter.

3. This section does not apply to group life insurance.

Sec. 8466.30. Exemption of Proceeds - Group Life: 1. A policy of group life insurance or the proceeds thereof payable to the individual insured or to the beneficiary thereunder, shall not be liable,

either before or after payment, to be applied to any legal or equitable process to pay any liability of any person having a right under the policy. The proceeds thereof, when not made payable to a named beneficiary or to a third person pursuant to a facility-of-payment clause, shall not constitute a part of the estate of the individual insured for the payment of his debts.

2. This section shall not apply to group life insurance policies issued under section 8470.03 to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.

Sec. 8466.31. Spouses' Rights in Life Insurance Policy: 1. Every life insurance policy heretofore or hereafter made payable to or for the benefit of the spouse of the insured, and every life insurance policy heretofore or hereafter assigned, transferred, or in any way made payable to a spouse or to a trustee for the benefit of a spouse, regardless of how such assignment or transfer is procured, shall, unless contrary to the terms of the policy, inure to the separate use and benefit of such spouse.

2. A married woman may, without the consent of her husband, contract, pay for, take out and hold a policy on the life or health of her husband or children, or against loss by his or their disablement by accident. The premiums paid on the policy shall be held to have been her separate estate, and the policy shall inure to her separate use and benefit and that of her children, free from any claim of her husband or others.

Sec. 8466.32. Forms for Proof of Loss Furnished: An insurer shall furnish, upon written request of any person claiming to have a loss under any insurance contract, forms of proof of loss for completion by such person. But such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

Sec. 8466.33. Claim Administration Not Waiver: None of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of any provision of a policy or of any defense of the insurer thereunder:

- (1) Acknowledgment of the receipt of notice of loss or claim under the policy.
- (2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.
- (3) Investigating any loss or claim under any policy or engaging in negotiations looking toward a possible settlement of any such loss or claim.

Sec. 8466.34. Validity of Noncomplying Forms: Any insurance policy, rider, or endorsement hereafter issued and otherwise valid, which contains any condition or provision not in compliance with the requirements of this chapter, shall not be rendered invalid thereby, but shall be construed and applied in accordance with such condi-

tions and provisions as would have applied had such policy, rider, or endorsement been in full compliance with this chapter.

Sec. 8466.35. Construction of Policies: Every insurance contract shall be construed according to the entirety of its terms and conditions as set forth in the policy, and as amplified, extended, restricted, or modified by any rider, endorsement, or application attached to and made a part of the policy.

Sec. 8466.36. Readjustment of Premiums - Dividends: 1. Any contract of group disability insurance or group life insurance may provide for the readjustment of the rate of premium based on experience at the end of the first year or of any subsequent year of insurance, and such readjustment may be made retroactive only for such policy year.

2. If a policy dividend is hereafter declared or a reduction in rate is hereafter made or continued under any group insurance policy heretofore or hereafter issued, the excess, if any, of the aggregate dividends or rate reductions under such policy and all other group insurance policies of the policyholder over the aggregate expenditure for insurance under such policies made from funds contributed by the policyholder, or by an employer of insured persons, or by a union or association to which insured persons belong, including expenditures made in connection with administration of such policies, shall be applied by the policyholder for the sole benefit of insured employees or members.

### ACCIDENT AND SICKNESS INSURANCE

Sec. 8467.01. Scope of Sections 8467.01 through 8467.39: Nothing in sections 8467.01 through 8467.39 shall apply to or affect:

- (1) Any policy of workmen's compensation insurance or any policy of vehicle or liability insurance with or without supplementary coverage therein; or
- (2) Any policy of contract of reinsurance; or
- (3) Any blanket or group policy of insurance; or
- (4) Life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as:
  - a. Provide additional benefits in case of death or dismemberment or loss of sight by accident, or
  - b. Operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

Sec. 8467.02. Accident and Sickness Insurance Policy Defined: The term policy of accident and sickness insurance as used herein includes any policy or contract covering the class of insurance described in section 8451.08.

Sec. 8467.03. Form of Policy: 1. A policy of accident and sickness insurance shall neither be delivered nor issued for delivery to any person in this Territory unless:

- (1) The entire money and other considerations therefor are expressed therein; and
  - (2) The time at which the insurance takes effect and terminates is expressed therein or determinable therefrom; and
  - (3) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder; and
  - (4) The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower case unspaced alphabet length not less than one hundred and twenty-point (the text shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and sub-captions); and
  - (5) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections 8467.05 through 8467.27, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as exceptions, or exceptions and reductions, provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and
  - (6) Each policy form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and
  - (7) It does not contain any provision purporting to make any portion of the charter, rules, constitution, or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the Commissioner.
2. If any policy is issued by an insurer domiciled in this Territory for delivery to a person residing in another territory, district, or state of the United States, and if the official having responsibility for the administration of the insurance laws of such state, district, or other territory shall have advised the Commissioner that such policy is not subject to approval or disapproval by such official, the Commissioner may by ruling require that such policy meet the standards set forth in paragraph one of this section and in sections 8467.04 through 8467.27.

Sec. 8467.04. Required Provisions: Except as provided in section

8467.28 each policy of accident and sickness insurance delivered or issued for delivery to any person in this Territory shall contain the provisions specified in sections 8467.05 through 8467.16 in the words in which the same appear in such sections, provided, however, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the Commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

Sec. 8467.05. Entire Contract; Changes: There shall be a required provision relative to the entire contract and changes therein. It shall be as follows:

"Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

Sec. 8467.06. Time Limit on Certain Defenses: 1. There shall be a required provision relative to the time limit on certain defenses. It shall be as follows:

"Time Limit on Certain Defenses:

(1) After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three-year period.

(2) No claim for loss incurred or disability (as defined in the policy) commencing after three years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

2. The policy provision set forth in item (1) above shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three-year period, not to limit the application of sections 8467.18 through 8467.21 in the event of misstatement with respect to age or occupation or other insurance.

3. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of item (1) of the above provision, the following provision (from which the clause in parentheses may be omitted at the insurer's option):

"Incontestable: After this policy has been in force for a period of three years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become

incontestable as to the statements contained in the application."

Sec. 8467.07. Grace Period: 1. There shall be a required provision relative to the grace period. It shall be as follows:

"Grace Period: A grace period of..... days [Insert a number not less than seven for weekly premium policies, ten for monthly premium policies, and thirty-one for all other policies.] will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

2. A policy which contains a cancellation provision may add at the end of the above provision:

"subject to the right of the insurer to cancel in accordance with the cancellation provision thereof."

3. A policy in which the insurer reserves the right to refuse any renewal shall have at the beginning of the above provision:

"Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

Sec. 8467.08. Reinstatement: 1. There shall be a required provision relative to reinstatement. It shall be as follows:

"Reinstatement: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; **provided**, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy shall be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insurer in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement."

2. The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue.

Sec. 8467.09. Notice of Claim: 1. There shall be a required provision relative to the notice of claim. It shall be as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at \_\_\_\_\_, [Insert the location of such office as the insurer may designate for the purpose.] or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

2. In a policy providing a loss of time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

"Subject to the qualification set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having giving notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which said notice is actually given."

Sec. 8467.10. Claim Forms: There shall be a required provision relative to claim forms. It shall be as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made."

Sec. 8467.11. Proofs of Loss: There shall be a required provision relative to proofs of loss. It shall be as follows:

"Proofs of Loss: In case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss, written proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, **provided** such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal



capacity, later than one year from the time proof is otherwise required."

Sec. 8467.12. Time of Payment of Claims: There shall be a required provision relative to time of payment of claims. It shall be as follows:

"Time of Payment of Claims: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid\_\_\_\_\_ [Insert period for payment which must not be less frequently than monthly.] and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

Sec. 8467.13. Payment of Claims: 1. There shall be a required provision relative to payment of claims. It shall be as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

2. The following provisions, or either of them, may be included with the above provision at the option of the insurer:

(1) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding\_\_\_\_\_ dollars, [Insert an amount which shall not exceed one thousand dollars.] to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

(2) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

Sec. 8467.14. Physical Examinations and Autopsy: There shall be a required provision relative to physical examinations and autopsy. It shall be as follows:

**"Physical Examinations and Autopsy:** The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law."

Sec. 8467.15. **Legal Actions:** There shall be a required provision relative to legal actions. It shall be as follows:

**"Legal Actions:** No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished."

Sec. 8467.16. **Change of Beneficiary:** 1. There shall be a required provision relative to change of beneficiary. It shall be as follows:

**"Change of Beneficiary:** Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

2. The first clause of the above provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

Sec. 8467.17. **Optional Provisions:** Except as provided in section 8467.28, no policy of accident and sickness insurance delivered or issued for delivery to any person in this Territory shall contain provisions respecting the matters set forth in sections 8467.18 through 8467.27 unless such provisions are in the words in which the same appear in such sections; **provided,** however, that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the Commissioner which is not less favorable in any respect to the insured or the beneficiary. Such provisions are hereby designated optional provisions. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

Sec. 8467.18. **Change of Occupation:** There may be an optional provision relative to change of occupation. It shall be as follows:

**"Change of Occupation:** If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the

premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

Sec. 8467.19. Misstatement of Age: There may be an optional provision relative to misstatement of age. It shall be as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

Sec. 8467.20. Other Insurance in This Insurer: There may be an optional provision relative to other insurance in this insurer. It shall be in one of the following forms:

- (1) "Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for \_\_\_\_\_ [Insert type of coverage or coverages.] in excess of \_\_\_\_\_ dollars, [Insert maximum limit of indemnity or indemnities.] the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."
- (2) "Other Insurance in This Insurer: Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

Sec. 8467.21. Insurance with Other Insurers: 1. There may be optional provisions relative to insurance with other insurers. Either or both of the following forms shall be used:

- (1) "Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had

notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the like amount of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage."

- (2) "Insurance with Other Insurers: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined."
2. If the provision set forth in item (1) above is included in a policy which also contains the provision set forth in item (2) above, there shall be added to the caption of the item (1) provision the phrase, expense incurred benefits.
3. The insurer may, at its option, include in the provision set forth in item (1) above a definition of other valid coverage, approved as to form by the Commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this Territory or any other state or territory of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the Commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payment insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the provision set forth in item (1) above with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise, shall in all cases be deemed to be other valid coverage of which the insurer has had notice. In applying the provision set forth in item (1) above no third party liability coverage shall be included as other valid coverage.
4. If the provision set forth in item (2) above is included in a policy which also contains the provision set forth in item (1) above, there shall be added to the caption of the item (2) provision the phrase, other benefits.
5. The insurer may, at its option, include in the provision set forth

in item (2) above a definition of other valid coverage, approved as to form by the Commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this Territory or any other state or territory of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the Commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the provision set forth in item (2) above with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be other valid coverage of which the insurer has had notice. In applying the provision set forth in item (2) above no third party liability coverage shall be included as other valid coverage.

Sec. 8467.22. Relation of Earnings to Insurance: 1. There may be an optional provision relative to relation of earnings to insurance. It shall be as follows:

"Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

2. The above policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue.

3. The insurer may, at its option, include in the above provision a definition of valid loss of time coverage, approved as to form by the Commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations

subject to regulation by insurance law or by insurance authorities of this Territory or any state, district or territory of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the Commissioner or any combination of such coverages. In the absence of such definition such terms shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Sec. 8467.23. Unpaid Premium: There may be an optional provision relative to unpaid premium. It shall be as follows:

"Unpaid Premium: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

Sec. 8467.24. Cancellation: There may be an optional provision relative to cancellation. It shall be as follows:

"Cancellation: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation."

Sec. 8467.25. Conformity with State Statutes: There may be an optional provision relative to conformity with state statutes. It shall be as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes."

Sec. 8467.26. Illegal Occupation: There may be an optional provision relative to illegal occupation. It shall be as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

Sec. 8467.27. Intoxicants and Narcotics: There may be an optional provision relative to intoxicants and narcotics. It shall be as follows:

"Intoxicants and Narcotics: The insurer shall not be liable for

any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician."

Sec. 8467.28. Inapplicable or Inconsistent Provisions: If any provision of sections 8467.05 through 8467.32 is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 8467.29. Order of Certain Policy Provisions: The provisions which are the subject of sections 8467.05 through 8467.27, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, **provided**, the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

Sec. 8467.30. Third Party Ownership: The word insured, as used in sections 8467.01 through 8467.39, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

Sec. 8467.31. Requirements of Other Jurisdictions: 1. Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this Territory, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of sections 8467.01 through 8467.39 and which is prescribed or required by the law of the state under which the insurer is organized.

2. Any policy of a domestic insurer may, when issued for delivery in any state or country, contain any provision permitted or required by the laws of such state or country.

Sec. 8467.32. Other Policy Provisions: No policy provision which is not subject to sections 8467.04 through 8467.31 shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to sections 8467.01 through 8467.39.

Sec. 8467.33. Policy Conflicting with Sections 8467.01 Through 8467.39: A policy delivered or issued for delivery to any person in this Territory in violation of sections 8467.01 through 8467.34 shall be held valid but shall be construed as provided in such sections. When any provision in a policy subject to such sections is in conflict with any provision of such sections, the rights, duties and obliga-

tions of the insurer, the insured and the beneficiary shall be governed by the provisions of such sections.

Sec. 8467.34. Age Limit: If any policy of accident and sickness insurance contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Sec. 8467.35. Filing Procedure: The Commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to sections 8467.01 through 8467.39 as are necessary, proper or advisable to the administration of sections 8467.01 through 8467.39. This provision shall not abridge any other authority granted the Commissioner by law.

Sec. 8467.36. Application: 1. The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this Territory shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within fifteen days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

2. No alteration of any written application for any such policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

3. The falsity of any statement in the application for any policy covered by sections 8467.01 through 8467.39 may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

Sec. 8467.37. Notice, Waiver: The acknowledgment by any insurer of the receipt of notice given under any policy covered by sections 8467.01 through 8467.39, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any



of the rights of the insurer in defense of any claim arising under such policy.

Sec. 8467.38. Continued Use of Present Policy Provisions: A policy, rider or endorsement, which could have been lawfully used or delivered or issued for delivery to any person in this Territory on or before December 31, 1951 may be used or delivered or issued for delivery to any such person until and including December 31, 1956 without being subject to the provisions of sections 8467.03 through 8467.33 of this chapter.

Sec. 8467.39. Franchise Plan: Insurance may be issued pursuant to the provisions of sections 8467.01 through 8467.38 on a franchise plan under the terms of which accident and sickness insurance is issued to:

- (1) Five or more employees of any corporation, co-partnership, or individual employer or any governmental corporation, agency or department thereof; or
- (2) Ten or more members, employees, or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or by-laws and is formed in good faith for purposes other than that of obtaining insurance;

where such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons under an arrangement whereby the premiums on such policies may be paid to the insurer periodically by the employer, with or without payroll deductions, or by the association for its members, or by some designated person acting on behalf of such employer or association. The term employees as used herein shall be deemed to include the officers, managers and employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

### GROUP AND BLANKET DISABILITY INSURANCE

Sec. 8468.01. Group Disability Insurance Defined: Group disability insurance is that form of disability insurance provided by a master policy issued to an employer, to a trustee appointed by an employer or employers, or to an association of employers formed for purposes other than obtaining such insurance, covering, with or without their dependents and family members, the employees, or specified categories of the employees, of such employers or their subsidiaries or affiliates, or issued to a labor union, or to an association of employees formed for purposes other than obtaining such insurance, covering, with or without their dependents and family members, the members, or specified categories of the members, of the labor union or association, or issued pursuant to section 8468.03, or issued to such other groups as qualify for group life insurance under the provisions of this chapter.

Sec. 8468.02. Employees—Employer Defined: The term employees

as used in sections 8468.01 through 8468.11 shall be deemed to include as employees of a single employer, the compensated officers, managers, and employees of the employer and of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms of which the business is under common control through stock ownership, contract or otherwise. The policy may provide that the term employees shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The term employee may be deemed to include retired employees. The term employer as used in sections 8468.01 through 8468.11 shall be deemed to include any municipal corporation or government unit, agency or department thereof as well as private individuals, firms, corporations and other persons.

Sec. 8468.03. Health Care Groups: A policy of group disability insurance may be issued to a corporation, as policyholder, existing primarily for the purpose of assisting individuals who are its subscribers in securing medical, hospital, dental, and other health care services for themselves and their dependents, covering all and not less than five hundred such subscribers and dependents, with respect only to medical, hospital, dental, and other health care services.

Sec. 8468.04. Blanket Disability Insurance Defined: 1. Any policy or contract of disability insurance which conforms with the description and complies with the requirements contained in one of the following five items shall be deemed a blanket disability insurance policy:

- (1) A policy issued to any common carrier of passengers, which carrier shall be deemed the policyholder, covering a group defined as all persons who may become such passengers, and whereby such passengers shall be insured against loss or damage resulting from death or bodily injury either while, or as a result of, being such passengers.
- (2) A policy issued in the name of any volunteer fire department, first aid or ambulance squad or volunteer police organization, which shall be deemed the policyholder, and covering all the members of any such organization against loss from accidents resulting from hazards incidental to duties in connection with such organizations.
- (3) A policy issued in the name of any established organization whether incorporated or not, having community recognition and operated for the welfare of the community and its members and not for profit, which shall be deemed the policyholder, and covering all volunteer workers who serve without pecuniary compensation and the members of the organization, against loss from accidents occurring while engaged in the actual performance of duties on behalf of such organization or in the activities thereof.
- (4) A policy issued to an employer, who shall be deemed the policyholder, covering any group of employees defined by reference to exceptional hazards incident to such employment, insuring such employees against death or bodily

injury resulting while, or from, being exposed to such exceptional hazards.

- (5) A policy covering students or employees issued to a college, school, or other institution of learning or to the head or principal thereof, who or which shall be deemed the policyholder.

2. Nothing contained in this section shall be deemed to affect the liability of policyholders for the death of or injury to, any such member of such group.

3. Individual applications shall not be required from individuals covered under a blanket disability insurance contract.

Sec. 8468.05. Standard Provisions, Group, Blanket Policies: Every policy of group or blanket disability insurance shall contain in substance the provisions as set forth in sections 8468.06 through 8468.09, or provisions which in the opinion of the Commissioner are more favorable to the individuals insured, or at least as favorable to such individuals and more favorable to the policyholder. No such policy of group or blanket disability insurance shall contain any provision relative to notice or proof of loss, or to the time for paying benefits, or to the time within which suit may be brought upon the policy, which in the opinion of the Commissioner is less favorable to the individuals insured than would be permitted by the standard provisions required for individual disability insurance policies.

Sec. 8468.06. Representations: There shall be a provision that all statements, made by the policyholder or by the individuals insured, shall be deemed to be representations and not warranties, and that no statement, made in the application by the policyholder, shall be used in any contest unless a copy of the application, if any, of the policyholder shall be attached to the policy when issued, and that no statement made by any individual insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such individual or to his beneficiary, if any, and that a misrepresentation, unless it is made with actual intent to deceive or unless it materially affects either the acceptance of the risk or the hazard assumed by the insurer, shall not prevent a recovery on the policy.

Sec. 8468.07. Payment of Premiums: There shall be a provision that all premiums due under the policy shall be remitted by the employer or employers of the persons insured, by the policyholder, or by some other designated person acting on behalf of the association or group insured, to the insurer on or before the due date thereof with such period of grace as may be specified therein.

Sec. 8468.08. Certificates: In group disability insurance policies there shall be a provision that the insurer shall issue to the employer, the policyholder, or other person or association in whose name such policy is issued, for delivery to each insured employee or member, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage, and to whom the benefits thereunder are payable. If family members are insured, only one certificate need be issued for each family. This section shall

not apply to blanket disability insurance policies.

Sec. 8468.09. Age Limitations: There shall be a provision specifying the ages, if any there be, to which the insurance provided therein shall be limited; and the ages, if any there be, for which additional restrictions are placed on benefits, and the additional restrictions placed on the benefits at such ages.

Sec. 8468.10. Examination and Autopsy: There may be provision that the insurer shall have the right and opportunity to examine the person of any individual covered under the policy when and so often as it may reasonably require during the pendency of claim under the policy and also the right and opportunity to make an autopsy in case of death where it is not prohibited by law.

Sec. 8468.11. Payment of Benefits: 1. The benefits payable under any policy or contract of group or blanket disability insurance shall be payable to the employee or other insured member of the group or to the beneficiary designated by him, other than the policyholder, employer or the association or any officer thereof as such, subject to provisions of the policy in the event the claimant is insane, or otherwise incompetent, or in the event there is no designated beneficiary as to all or any part of any sum payable at the death of the individual insured.

2. Any group or blanket disability policy may provide that all or any portion of any indemnities provided by any such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services, but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount so paid.

## **LIFE INSURANCE AND ANNUITIES**

Sec. 8469.01. Scope of Article: The provisions of sections 8469.01 through 8469.31 apply to contracts of life insurance and annuities other than group life insurance, group annuities, and, except for sections 8469.12, 8469.23, 8469.24, 8469.30, and 8469.31, other than industrial life insurance.

Sec. 8469.02. Standard Provisions Required: 1. No policy of life insurance shall be delivered or issued for delivery in this Territory unless it contains in substance all of the provisions required by sections 8469.03 through 8469.11.

2. Any of such provisions or portions thereof not applicable to single premium policies shall to that extent not be incorporated therein. This section shall not apply to any provision of a life insurance policy relating to disability benefits or to additional benefits in event of death by accident or accidental means, nor to annuities and pure endowment contracts.

Sec. 8469.03. Grace Period: A provision that a grace period of thirty days or, at the option of the insurer of one month, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue

in full force; but if a claim arises under the policy during such period of grace before the overdue premium is paid the amount of such premium may be deducted from the policy proceeds.

Sec. 8469.04. Entire Contract: A provision that the policy, or the policy and the application therefor if a copy of such application is endorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties, and that all statements contained in the application shall, in the absence of fraud, be deemed representations and not warranties.

Sec. 8469.05. Incontestability: A provision that the policy (exclusive of provisions relating to disability benefits or to additional benefits in the event of death by accident or accidental means) shall be incontestable, except for nonpayment of premiums, after it has been in force during the lifetime of the insured for a period of two years from its date of issue.

Sec. 8469.06. Misstatement of Age: A provision that if the age of the insured or of any other person whose age is considered in determining the premium has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 8469.07. Participation in Surplus: 1. A provision in participating policies that, beginning not later than the end of the third policy year, the insurer shall annually ascertain and apportion the divisible surplus, if any, accruing on the policy. Except as hereinafter provided, any dividend so apportioned shall at the option of the party entitled to elect such option be either:

- (1) payable in cash or
- (2) applied to any one of such other dividend options as may be provided by the policy.

2. If any such other dividend options are provided, the policy shall further state which option shall be automatically effective if such party shall not have elected some other option before the expiration of a period not less than thirty days following the date on which such dividend is due and payable. The annually apportioned dividend shall be deemed to be payable in cash within the meaning of item (1) above even though the policy provides that payment of such dividend is to be deferred for a specified period, **provided** such period does not exceed six years from the date of apportionment, and that interest will be added to such dividend at a specified rate. If a policy provides that the benefit under any paid-up nonforfeiture provision is to be participating, it may provide that any divisible surplus apportioned while the insurance is in force under such nonforfeiture provision shall be applied in the manner set forth in the policy.

Sec. 8469.08. Policy Loan: 1. In the case of policies issued prior to the operative date of the Standard Nonforfeiture Law (section 8469.31), a provision that after the policy has been in force three full years, the insurer at any time, while the policy is in force, will advance on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to,

or at the option of the insured less than, the reserve at the end of the current policy year on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by section 8460.09, less a sum of not more than two and one-half per cent of the amount insured by the policy and of any dividend additions thereto; and that the insurer will deduct from the loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that the loan may be deferred for not exceeding six months after the application therefor is made. This paragraph one shall not be required in term insurance, nor shall it apply to temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies.

2. In the case of policies issued on or after the operative date of the Standard Nonforfeiture Law (section 8469.31), a provision that after the policy has a cash surrender value and while no premium is in default, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a rate of interest not exceeding six per cent per annum, an amount at the option of the party entitled thereto, not to exceed the loan value less any prior indebtedness on the policy. The policy shall provide for a loan value at least equal to the cash surrender value of the policy without indebtedness at the end of the then current policy year, less any unpaid balance of the premium for the current policy year, and less interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor is made. This paragraph two shall not apply to term policies nor to term insurance benefits provided by rider or supplemental policy provision.

**Sec. 8469.09. Nonforfeiture Benefits and Cash Surrender Values:**

1. In the case of policies issued prior to the operative date of the Standard Nonforfeiture Law (section 8469.31), a provision that in event of default in premium payments, after premiums shall have been paid for three years, the insured shall be entitled to a stipulated form of insurance the net value of which shall be at least equal to the reserve at the date of default on the policy and on dividend additions thereto, if any, computed according to a mortality table, interest rate, and method of valuation permitted by section 8460.09, less a percentage (not more than two and one-half) of the amount insured by the policy and of existing dividend additions thereto, if any, and less any existing indebtedness to the insurer on or secured by the policy; provided, that if the benefits under the policy are calculated

according to a more modern table than the American Experience Table of Mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding 130 per cent of the rates according to such more modern table; **provided**, further, that the policy may be surrendered to the insurer at its home office within one month of date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid; and **provided**, further, that the insurer may defer payment for not more than six months after the application therefor is made. The policy shall also contain a provision specifying the options to which the policyholder is entitled in the event of default in a premium payment after three full annual premiums shall have been paid. A provision may also be inserted in the policy that in event of default in a premium payment before the options become available the reserve on any dividend additions then in force may at the option of the insurer be paid in cash or applied as a net premium to the purchase of paid-up term insurance for any amount not in excess of the face of the original policy. The policy shall contain a table showing in figures the loan values and the options available under the policy each year upon default in premium payments, during at least the first twenty years of the policy or during the premium paying period if less than twenty years. This paragraph one shall not be required in term insurance of twenty years or less.

2. In the case of policies issued on or after the operative date of the Standard Nonforfeiture Law (section 8469.31), a provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of section 8469.31.

Sec. 8469.10. Table of Installments: In case the policy provides that the proceeds may be payable in installments which are determinable prior to maturity of the policy, a table showing the amounts of the guaranteed installments.

Sec. 8469.11. Reinstatement: A provision that unless the policy has been surrendered for its cash surrender value or unless the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three years from the date of premium default upon written application therefor, the production of evidence of insurability satisfactory to the insurer, and the payment of all premiums in arrears, and the payment or reinstatement of any other indebtedness to the insurer upon the policy, all with interest at a rate not exceeding six per cent per annum compounded annually.

Sec. 8469.12. Scope of Incontestable Clauses: A clause in any policy of life insurance, providing that such policy shall be incontestable after a specified period, shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

Sec. 8469.13. Annuities and Pure Endowment Contracts—Stand-

and Provisions Required: 1. No annuity or pure endowment contract, other than reversionary annuities, or survivorship annuities, shall be delivered or issued for delivery in this Territory unless it contains in substance each of the provisions specified in sections 8469.14 through 8469.19. Any of such provisions not applicable to single premium annuities or single premium pure endowment contracts shall not, to that extent, be incorporated therein.

2. This section shall not apply to contracts for annuities included in, or upon the lives of beneficiaries under, life insurance policies.

Sec. 8469.14. Annuities and Pure Endowment Contracts—Grace Period: In such contracts, there shall be a provision that there shall be a period of grace of one month, but not less than thirty days, within which any stipulated payment to the insurer falling due after the first may be made, subject at the option of the insurer, to an interest charge thereon at a rate to be specified in the contract but not exceeding six per cent per annum for the number of days of grace elapsing before such payment, during which period of grace, the contract shall continue in full force; but in case a claim arises under the contract on account of death prior to expiration of the period of grace before the overdue payment to the insurer of the deferred payments of the current contract year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the contract in settlement.

Sec. 8469.15. Annuities and Pure Endowment Contracts—Incontestability: If any statements, other than those relating to age, sex, and identity, are required as a condition to issuing such an annuity or pure endowment contract, and subject to section 8469.18, there shall be a provision that the contract shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two years from its date of issue, except for nonpayment of stipulated payments to the insurer; and at the option of the insurer, such contract may also except any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means.

Sec. 8469.16. Annuities and Pure Endowment Contracts—the Entire Contract: In such contracts there shall be a provision that the contract shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon or attached to the contract when issued, a provision that the contract and the application therefor shall constitute the entire contract between the parties.

Sec. 8469.17. Annuities and Pure Endowment Contracts—Misstatement of Age or Sex: In such contracts there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefit accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex; and that if the



insurer shall make or has made any overpayment or overpayments on account of any such misstatement, the amount thereof, with interest at the rate to be specified in the contract but not exceeding six per cent per annum, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract.

**Sec. 8469.18. Annuities and Pure Endowment Contracts—Dividends:** If such contract is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract except that at the option of the insurer such participation may be deferred to the end of the third contract year.

**Sec. 8469.19. Annuities and Pure Endowment Contracts—Reinstatement:** In such contracts there shall be a provision that the contract may be reinstated at any time within one year from the date of default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the contract shall be paid or reinstated, with interest thereon at a rate to be specified in the contract but not exceeding six per cent per annum compounded annually, and in cases where applicable, the insurer may also include a requirement of evidence of insurability satisfactory to the insurer.

**Sec. 8469.20. Reversionary Annuities—Standard Provisions Required:** 1. No contract for a reversionary annuity shall be delivered or issued for delivery in this Territory unless it contains in substance each of the provisions specified in sections 8469.21 and 8469.22. Any of such provisions not applicable to single premium annuities shall not, to that extent, be incorporated therein. 2. This section shall not apply to annuities included in life insurance policies.

**Sec. 8469.21. Reversionary Annuities—Provisions Same as for Other Annuities:** Any such reversionary annuity contract shall contain the provisions specified in sections 8469.14 through 8469.18 except that under section 8469.14 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue or deferred payment in lieu of providing for a deduction of such payments from an amount payable upon a settlement under the contract.

**Sec. 8469.22. Reversionary Annuities—Reinstatement:** In such reversionary annuity contracts there shall be a provision that the contract may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon condition that all overdue payments and any indebtedness to the insurer on account of the contract be paid, or, within the limits permitted by the then cash values of the contract, reinstated, with interest as to both payments and indebtedness at a rate to be specified in the contract but not exceeding six per cent per annum compounded annually.

Sec. 8469.23. Limitation of Liability: 1. No policy of life insurance shall be delivered or issued for delivery in this Territory if it contains a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that the policy may contain provisions excluding or restricting coverage as specified therein in event of death under any one or more of the following circumstances:

- (1) Death as a result directly or indirectly of war, declared or undeclared, or of any act or hazard of such war;
- (2) Death as the result of aviation;
- (3) Death as a result of a specified hazardous occupation or occupations;
- (4) Death while the insured is a resident outside United States and Canada; or
- (5) Death within two years from the date of issue of the policy as a result of suicide, while sane or insane.

2. A policy which contains any exclusion or restriction pursuant to the preceding paragraph one shall also provide that in the event of death under circumstances to which any such exclusion or restriction is applicable the insurer will pay an amount not less than a reserve determined according to the valuation method prescribed in the minimum standard required by law upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

3. This section shall not apply to annuities and pure endowment contracts, or to any provision of a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

4. An insurer may specify conditions pertaining to paragraphs one and two of this section which in the Commissioner's opinion are more favorable to the policyholder.

Sec. 8469.24. Incontestability after Reinstatement: The reinstatement of any policy of life insurance or contract of annuity hereafter delivered or issued for delivery in this Territory may be contestable on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement as the policy provides with respect to contestability after original issuance.

Sec. 8469.25. Premium Deposits: 1. A life insurer may, under such policy provisions or agreements as have been approved by the Commissioner consistent with this section, contract for and accept premium deposits in addition to the regular premiums specified in the policy, for the purpose of paying future premiums, or to facilitate conversion of the policy, or to increase the benefits thereof.

2. The unused accumulation from such deposits shall be held and accounted for as a premium deposit fund, and the policy or agreement shall provide for the manner of application of the premium deposit fund to the payment of premiums otherwise in default and

for the disposition of the fund if it is not sufficient to pay the next premium.

3. Such fund shall:

- (1) be available upon surrender of the policy, in addition to the cash surrender value; and
- (2) be payable upon the insured's death or upon maturity of the policy; and
- (3) be paid to the insured whenever the cash surrender value together with the premium deposit fund equals or exceeds the amount of insurance provided by the policy, unless the amount of the deposit does not exceed that which may be required to facilitate conversion of the policy to another plan in accordance with its terms.

4. No part of the premium deposit fund shall be paid to the insured during the continuance of the policy except at such times and in such amounts as is specified in the policy or in the deposit agreement.

Sec. 8469.26. Policy Settlements: Any life insurer shall have the power to hold under agreement the proceeds of any policy issued by it, upon such terms and restrictions as to revocation by the policyholder and control by beneficiaries, and with such exemptions from the claims of creditors of beneficiaries other than the policyholder as set forth in the policy or as agreed to in writing by the insurer and the policyholder. Upon maturity of a policy in the event the policyholder has made no such agreement, the insurer shall have the power to hold the proceeds of the policy under an agreement with the beneficiaries. The insurer shall not be required to segregate funds so held but may hold them as part of its general assets.

Sec. 8469.27. Indebtedness Deducted from Proceeds: In determining the amount due under any life insurance policy heretofore or hereafter issued, deduction may be made of:

- (1) any unpaid premiums or installments thereof for the current policy year due under the terms of the policy, and of
- (2) the amount of principal and accrued interest of any policy loan or other indebtedness against the policy then remaining unpaid, such principal increased by unpaid interest and compounded as provided in the provisions of sections 8469.01 through 8469.31.

Sec. 8469.28. Miscellaneous Proceeds: Upon the death of the insured and except as is otherwise expressly provided by the policy or premium deposit agreement, a life insurer may pay to the surviving spouse, children, beneficiary, or other person other than the insured's estate, appearing to the insurer to be equitably entitled thereto, sums then held by it and comprising:

- (1) Premiums paid in advance, and which premiums did not fall due prior to such death, or funds held on deposit for the payment of future premiums.
- (2) Dividends theretofore declared on the policy and held by the insurer under the insured's option.

- (3) Dividends becoming payable on or after the death of the insured.

Sec. 8469.29. Dealing in Dividends: No life insurer nor any of its representatives, general agents, subagents, solicitors or affiliates, shall buy, take by assignment other than in connection with policy loans, or otherwise deal or traffic in any rights to dividends existing under participating life insurance policies issued by the insurer.

Sec. 8469.30. Prohibited Policy Plans: No life insurer shall hereafter issue for delivery or deliver in this Territory any life insurance policy:

- (1) Issued under any plan for the segregation of policyholders into mathematical groups and providing benefits for a surviving policyholder of a group arising out of the death of another policyholder of such group, or under any other similar plan.
- (2) Providing benefits or values for surviving or continuing policyholders contingent upon the lapse or termination of the policies of other policyholders, whether by death or otherwise.

Sec. 8469.31. Standard Nonforfeiture Law - Life Insurance Contracts: 1. This section shall be known as the Standard Nonforfeiture Law.

2. Nonforfeiture Provisions - Life:

- (1) In the case of policies issued on or after the operative date of this section as defined in paragraph eight, no policy of life insurance, except as stated in paragraph seven, shall be delivered or issued for delivery in this Territory unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the defaulting or surrendering policyholder:
  - a. That, in the event of default in any premium payment, the insurer will grant, upon proper request not later than sixty days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.
  - b. That, upon surrender of the policy within sixty days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.
  - c. That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than sixty days after the due date of the premium in default.
  - d. That, if the policy shall have become paid-up by completion of all premium payments or if it is continued under

any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the insurer will pay, upon surrender of the policy within thirty days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

- e. A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first twenty policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the insurer on the policy.
  - f. A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the jurisdiction in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the insurer on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the jurisdiction in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.
- (2) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.
  - (3) The insurer shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.
3. Cash Surrender Value - Life:
- (1) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by paragraph two of this section, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by

the policy including any existing paid-up additions, if there had been no default, over the sum of:

- a. the then present value of the adjusted premiums as defined in paragraph five of this section, corresponding to premiums which would have fallen due on and after such anniversary, and
  - b. the amount of any indebtedness to the insurer on account of or secured by the policy.
- (2) Any cash surrender value available within thirty days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefits, whether or not required by such paragraph two, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy including any existing paid-up additions, decreased by any indebtedness to the insurer on account of or secured by the policy.

4. **Paid-Up Nonforfeiture Benefit - Life:** Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

5. **The Adjusted Premium - Life:**

- (1) The adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:
  - a. the then present value of the future guaranteed benefits provided for by the policy;
  - b. two per cent of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;
  - c. forty per cent of the adjusted premium for the first policy year;
  - d. twenty-five per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.
- (2) **Provided**, however, that in applying the percentages specified in c. and d. above, no adjusted premium shall be deemed to exceed four per cent of the amount of insurance or level amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured

or automatically in accordance with the provisions of the policy, the date of inception of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy.

- (3) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this paragraph shall be deemed to be the level amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; **provided**, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten was the amount provided by such policy at age ten.
- (4) All adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioner's 1941 Standard Ordinary Mortality Table for ordinary insurance and the 1941 Standard Industrial Mortality Table for industrial insurance and the rate of interest, not exceeding three and one-half per cent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. **Provided**, however, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than one hundred and thirty per cent of the rates of mortality according to such applicable table. **Provided**, further, that for insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the Commissioner.

6. Calculation of Values - Life: Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in paragraphs three, four and five of the section may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of paragraph three of this section, additional benefits payable:

- (1) in the event of death or dismemberment by accident or accidental means,

- (2) in the event of total and permanent disability.
- (3) as reversionary annuity or deferred reversionary annuity benefits,
- (4) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, and
- (5) as other policy benefits additional to life insurance and endowment benefits,

and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

7. Exceptions: This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of fifteen years or less expiring before age sixty-six, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in paragraph five of this section, is less than the adjusted premium so calculated, on such fifteen year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this Territory through an agent or other representative of the insurer issuing the policy.

8. Operative Date: After the effective date of this chapter, any insurer may file with the Commissioner a written notice of its election to comply with the provisions of this section after a specified date within six months from the effective date of this chapter. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer), this section shall become operative with respect to the policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be six months from the effective date of this chapter.

### GROUP LIFE INSURANCE

Sec. 8470.01. Must Meet Group Requirements: 1. No contract of life insurance shall hereafter be delivered or issued for delivery in this Territory insuring the lives of more than one individual unless to one of the groups as provided for in sections 8470.01 through 8470.20 and unless in compliance with the other provisions of such sections. 2. Paragraph one of this section shall not apply to contracts of life insurance insuring only individuals:

- (1) related by marriage, by blood, or by legal adoption; or
- (2) having a common interest through ownership of a business enterprise, or of a substantial legal interest or equity therein, and who are actively engaged in the management thereof; or
- (3) insuring only individuals otherwise having an insurable interest in each other's lives.

Sec. 8470.02. Employee Groups: The lives of a group of individuals may be insured under a policy issued to an employer, or to



the trustees of a fund established by an employer, which employer or trustee is deemed the policyholder, insuring employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

- (1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term employees shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term employees shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term employees shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.
- (2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five per cent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at least ten employees at date of issue.
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees. No policy may be issued which provides term insurance on any employee which together with any other term insurance under any group life insurance policy or policies issued to the employers or any of them or to the trustees of a fund established in

whole or in part by the employers or any of them exceeds twenty thousand dollars, unless one hundred fifty per cent of the annual compensation of such person from his employer exceeds twenty thousand dollars, in which event all such term insurance shall not exceed forty thousand dollars or one hundred fifty per cent of such annual compensation, whichever is the lesser.

Sec. 8470.03. Debtor Groups: The lives of a group of individuals may be insured under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

- (1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term debtors shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract, or otherwise.
- (2) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured.
- (4) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor, or five thousand dollars, whichever is less.
- (5) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

- (6) Payment by the debtor insured under any such group life insurance contract of an amount not in excess of the premium charged the creditor by the insurer for such insurance pertaining to the debtor, shall not be deemed to constitute a charge upon a loan in violation of any banking or usury law or any law regulating installment sales.

Sec. 8470.04. Labor Union Groups: The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

- (1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.
- (2) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at least twenty-five members at date of issue.
- (4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union. No policy may be issued which provides term insurance on any union member which together with any other term insurance under any group life insurance policies issued to the union exceeds twenty thousand dollars, unless one hundred fifty per cent of the annual compensation of such person from his employer exceeds twenty thousand dollars, in which event all such term insurance shall not exceed forty thousand dollars or one hundred fifty per cent of such annual compensation, whichever is the lesser.

Sec. 8470.05. Trustee Groups: The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more labor unions, or by one or more employers and one or more labor unions which trustees shall be deemed the policyholder, to in-

sure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

- (1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term employees shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term employees shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.
- (2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or, except in the case of a policy issued to the trustees of a fund established wholly by two or more employers, partly from such funds and partly from funds contributed by the insured persons. No policy may be issued to the trustees of a fund established wholly by two or more employers on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance may be placed in force only if at least seventy-five per cent of the then eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (3) The policy must cover at date of issue at least twenty-five persons and not less than an average of four persons per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if:
  - a. Either:
    - (a) the participating employers constitute at date of issue at least thirty-three and one-third per cent of those



the agents, if the premiums are on a renewable term insurance basis, exceed one dollar per month per one thousand dollars of insurance coverage plus any additional premium per one thousand dollars of insurance coverage charged to cover one or more hazardous occupations.

- (7) For the purposes of this section the term agents shall be deemed to include general agents, subagents, solicitors, and salesmen.

Sec. 8470.07. Public Employee Association Groups: The lives of a group of individuals may be insured under a policy issued to an association of public employees, which shall be deemed the policyholder, to insure members of such association for the benefit of persons other than the association or any of its officials, subject to the following requirements:

- (1) The association must have been formed for purposes other than obtaining insurance and have when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five per cent of the number of employees eligible for membership in such classes.
- (2) The members eligible for insurance under the policy shall be all of the members of the association, or all of any class or classes thereof determined by conditions pertaining to their employment or to membership in the association, or both.
- (3) The premium for the policy shall be paid by the policyholder, either from the association's own funds or from charges collected from the insured members specifically for the insurance, or from both. Any charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be collected through deductions by the employer from the salaries of the members. Such deductions from salary may be paid by the employer to the association or directly to the insurer. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have authorized their employer to make the required deductions from salary, or have otherwise assigned pay or arranged for payment of their individual contributions to the association. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.
- (4) Charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonably spaced attained age groups. This provision, however, shall not preclude an average rate for the whole group with charges to

the individual members based on a schedule of insurance graded by rank, salary bracket, or by length of service or seniority.

- (5) The policy must cover at least twenty-five persons at date of issue.
- (6) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the association. No policy may be issued which provides term insurance on any member which together with any other term insurance under any group life insurance policy or policies issued to the association, exceeds twenty thousand dollars.
- (7) As used herein, public employees means employees of the United States government, or of any state, or of any political subdivision or instrumentality or department or bureau or board or commission of any of them, or the National Guard as an association in nature under its existing form.

Sec. 8470.08. Standard Provisions Required: No policy of group life insurance shall be delivered or issued for delivery in this Territory unless it contains in substance the standard provisions as required by sections 8470.08 through 8470.18, or provisions which in the opinion of the Commissioner are more favorable to the individuals insured, or at least as favorable to such individuals and more favorable to the policyholder; except, that:

- (1) Provisions set forth in sections 8470.14 through 8470.18 shall not apply to policies issued to a creditor to insure its debtors.
- (2) If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the Commissioner is or are equitable to the insured persons and to the policyholder, but such nonforfeiture benefits are not required to be the same as those required for individual life insurance policies.

Sec. 8470.09. Group Life - Standard Provision - Grace Period: There shall be a provision that the policyholder is entitled to a grace period of one month, but not less than thirty days, for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

Sec. 8470.10. Group Life - Standard Provision - Incontestability: There shall be a provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by an individual insured under the policy relating to his insurability shall be used in contesting the validity of the insur-

ance with respect to which such statement was made, after such insurance has been in force prior to the contest for a period of two years during such individual's lifetime, nor unless it is contained in a written instrument signed by him.

**Sec. 8470.11. Group Life - Standard Provision - the Contract - Representations:** There shall be a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued and become a part of the contract; that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

**Sec. 8470.12. Group Life - Standard Provision - Insurability:** There shall be a provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

**Sec. 8470.13. Group Life - Standard Provision - Misstatement of Age:** There shall be a provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

**Sec. 8470.14. Group Life - Standard Provision - Beneficiary:** There shall be a provision that any sum becoming due by reason of the death of the individual insured shall be payable to the beneficiary designated by such individual, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the individual insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding five hundred dollars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the individual insured.

**Sec. 8470.15. Group Life - Standard Provision - Certificates:** There shall be a provision that the insurer will issue to the policyholder for delivery to each individual insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in sections 8470.16, 8470.17 and 8470.18.

**Sec. 8470.16. Group Life - Standard Provision - Conversion on Termination of Eligibility:** There shall be a provision that if the insurance, or any portion of it, on an individual covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such individual shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided appli-



cation for the individual policy shall be made, and the first premium paid to the insurer, within one month, but not less than thirty days, after such termination, and **provided** further that:

- (1) the individual policy shall, at the option of such individual, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;
- (2) the individual policy shall be in an amount not in any event in excess of the amount of life insurance which ceases because of such termination nor less than one thousand dollars unless a smaller amount of coverage was provided for such individual under the group policy; **provided** that in the case of a person whose membership in the class or classes eligible for coverage terminates but who continues in employment in another class, the individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination less the amount of any life insurance for which such person is or becomes eligible under any other group policy within one month, but not less than thirty days after such termination; and **provided** further that any amount of insurance which matures on the date of such termination or has matured prior thereto under the group policy as an endowment payable to the individual insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and
- (3) the premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such individual then belongs, and to his age attained on the effective date of the individual policy.

Sec. 8470.17. Group Life - Standard Provision - Conversion on Termination of Policy: There shall be a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured individuals, every individual insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 8470.16 above, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

- (1) the amount of the individual's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within one month, but not less than thirty days, of such termination, or
- (2) two thousand dollars.

Sec. 8470.18. Group Life - Standard Provision - Death Pending

**Conversion:** There shall be a provision that if an individual insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with sections 8470.16 and 8470.17, and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

**Sec. 8470.19. Notice to Insured Regarding Conversion Right:** If any individual insured under a group life insurance policy hereafter delivered in this Territory becomes entitled under the terms of such policy to have an individual policy of life insurance issued to him without evidence of insurability, subject to making of application and payment of the first premium within the period specified in such policy, and if such individual is not given notice of the existence of such right at least fifteen days prior to the expiration date of such period, then, in such event the individual shall have an additional period within which to exercise such right, but nothing herein contained shall be construed to continue any insurance beyond the period provided in such policy. This additional period shall expire fifteen days next after the individual is given such notice but in no event shall such additional period extend beyond sixty days next after the expiration date of the period provided in such policy. Written notice presented to the individual or mailed by the policyholder to the last known address of the individual or mailed by the insurer to the last known address of the individual as furnished by the policyholder shall constitute notice for the purpose of this section.

**Sec. 8470.20. Dependents of Employees:** 1. Insurance under any group life insurance policy issued pursuant to sections 8470.02, 8470.04, 8470.05, 8470.06 and 8470.07 may, if seventy-five per cent of the insured employees elect, be extended to insure the dependents, or any class or classes thereof, of each insured employee who so elects, in amounts in accordance with some plan which precludes individual selection and which shall not be in excess of fifty per cent of the insurance on the life of such insured employee or one thousand dollars, whichever is less; **provided**, however, in the case of a dependent whose age at death is under six months, the amount shall not be in excess of one hundred dollars.

2. A dependent shall be the spouse or a child under twenty years of age of the insured employee. The premiums for the insurance on such dependents may be paid by the employer or by the employee or by the employer and the employee jointly.

3. For the purposes of this section, the term employee shall be deemed to include members of a labor union, agents and members of a public employee association.

## INDUSTRIAL LIFE INSURANCE

**Sec. 8471.01. Scope of Sections 8471.01 through 8471.24:** The pro-

visions of sections 8471.01 through 8471.24 apply only to industrial life insurance contracts.

Sec. 8471.02. Industrial Life Insurance Defined: Industrial life insurance is any life insurance provided by an individual insurance contract issued in face amount of less than one thousand dollars under which premiums are payable monthly or oftener, and bearing the words industrial policy printed upon the policy as a part of the descriptive matter.

Sec. 8471.03. Compliance Required: No policy of industrial life insurance shall be delivered or be issued for delivery in this Territory after the effective date of this chapter, except in compliance with the provisions of sections 8471.01 through 8471.24, and with other applicable provisions of this chapter.

Sec. 8471.04. Standard Provisions Required: No such policy shall be so issued or delivered unless it contains in substance the provisions as required by the provisions of sections 8471.01 through 8471.24, or provisions which in the opinion of the Commissioner are at least as favorable to the policyholder.

Sec. 8471.05. Grace Period: There shall be a provision that the insured is entitled to a grace period of four weeks within which the payment of any premium after the first may be made, except that in policies the premiums for which are payable monthly, the period of grace shall be one month but not less than thirty days; and that during the period of grace the policy shall continue in full force, but if during the grace period the policy becomes a claim, then any overdue and unpaid premiums may be deducted from any settlement under the policy.

Sec. 8471.06. Entire Contract: There shall be a provision that the policy shall constitute the entire contract between the parties, or, if a copy of the application is endorsed upon or attached to the policy when issued, a provision that the policy and the application therefor shall constitute the entire contract. If the application is so made a part of the contract, the policy shall also provide that all statements made by the applicant in such application shall, in the absence of fraud, be deemed to be representations and not warranties.

Sec. 8471.07. Incontestability: There shall be a provision that the policy shall be incontestable after it has been in force during the lifetime of the insured for a period of two years from its date of issue, except for nonpayment of premiums, and except, at the option of the insurer, as to supplemental provisions providing benefits for disability or specifically for death by accident or accidental means.

Sec. 8471.08. Misstatement of Age: There shall be a provision that if it is found that the age of the individual insured, or the age of any other individual considered in determining the premium, has been misstated, any amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages.

Sec. 8471.09. Participation: If a participating policy, there shall

be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy. This provision shall not prohibit the payment of additional dividends on default of payment of premiums or termination of the policy.

Sec. 8471.10. Nonforfeiture Benefits: There shall be a provision for nonforfeiture benefits as required by section 8469.31.

Sec. 8471.11. Cash Surrender Value: There shall be a provision for a cash surrender value as required by section 8469.31.

Sec. 8471.12. Reinstatement: There shall be a provision that the policy be reinstated at any time within two years after the date of default in the payment of any premium, unless the policy has been surrendered for its cash value or the period of any extended insurance provided by the policy has expired, upon evidence of insurability, including good health, satisfactory to the insurer and the payment of all overdue premiums, and payment (or, within the limits permitted by the then cash values of the policy, reinstatement) of any other indebtedness to the insurer upon the policy with interest as to both premiums and indebtedness at a rate not exceeding six per cent annum compounded annually.

Sec. 8471.13. Settlement: There shall be a provision that when the policy becomes a claim by the death of the insured, settlement shall be made upon surrender of the policy and receipt of due proof of death, or after a specified period not exceeding two months after such surrender and receipt of proof; provided, however, an insurer is also permitted to require that the premium receipt book be delivered to it prior to settlement.

Sec. 8471.14. Authority to Alter Contract: There shall be a provision that no agent shall have the power or authority to waive, change or alter any of the terms or conditions of any policy; except that, at the option of the insurer, the terms or conditions may be changed by an endorsement signed by a duly authorized officer of the insurer.

Sec. 8471.15. Beneficiary: 1. Each such policy shall have a space on the front or back page of the policy for the name of the beneficiary designated with a reservation of the right to designate or change the beneficiary after the issuance of the policy.

2. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured.

Sec. 8471.16. Facility of Payment Clause: Such a policy may also provide that if the beneficiary designated in the policy does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than thirty days after the death of the insured, or if the beneficiary is the estate of the insured or is a minor, or dies before the insured or is not legally competent to give a valid release, then the insurer may make payment thereunder to the executor or administrator of the insured, or to any of the insured's relatives by blood or legal adoption or connection by mar-

riage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. Such policy may also include a similar provision applicable to any other payment due under the policy.

Sec. 8471.17. Premiums Paid Direct: In the case of weekly premium policies, there may be a provision that upon proper notice to the insurer while premiums on the policy are not in default beyond the grace period, of the intention to pay future premiums directly to the insurer at its home office or any office designated by the insurer for the purpose, the insurer will, at the end of each period of a year from the due date of the first premium so paid, for which period such premiums are so paid continuously without default beyond the grace period, refund a stated percentage of the premiums in an amount which fairly represents the savings in collection expense.

Sec. 8471.18. Conversion - Weekly Premium Policies: There shall be a provision in the case of weekly premium policies granting, upon proper written request and upon presentation of evidence of the insurability of the insured satisfactory to the insurer, the privilege of converting his weekly premium industrial insurance to any form of life insurance with less frequent premium payments regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversion need be granted only if the insurer's weekly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of such insurance with less frequent premium payments issued by the insurer at the age of the insured on the plan of industrial or ordinary insurance desired.

Sec. 8471.19. Conversion - Monthly Premium Policies: There shall be a provision, in the case of monthly premium industrial policies, granting, upon written request and upon presentation of evidence of the insurability of the insured satisfactory to the insurer, the privilege of converting his monthly premium industrial insurance to any form of ordinary life insurance regularly issued by the insurer, in accordance with terms and conditions agreed upon with the insurer. The privilege of making such conversions need be granted only if the insurer's monthly premium industrial policies on the life insured, in force as premium paying insurance and on which conversion is requested, grant benefits in event of death, exclusive of additional accidental death benefits and exclusive of any dividend additions, in an amount not less than the minimum amount of ordinary insurance issued by the insurer at the age of the insured on the plan of ordinary insurance desired.

Sec. 8471.20. Title on Policy: There shall be a title on the face of each such policy briefly describing its form.

Sec. 8471.21. Application to Term and Specified Insurance:

Any of the provisions required by sections 8471.01 through 8471.24 or any portion thereof which are not applicable to single premium or term policies or to policies issued or granted pursuant to nonforfeiture provisions, shall to that extent not be incorporated therein.

Sec. 8471.22. Crediting of Dividends: An insurer shall credit annually beginning not later than the fifth policy year, any dividend arising under a participating industrial life insurance contract.

Sec. 8471.23. Prohibited Provisions: No such policy shall contain:

- (1) A provision by which the insurer may deny liability under the policy for the reason that the insured has previously obtained other insurance from the same insurer.
- (2) A provision giving the insurer the right to declare the policy void because the insured has had any disease or ailment, whether specified or not, or because the insured has received institutional, hospital, medical or surgical treatment or attention, except a provision which gives the insurer the right to declare the policy void if the insured has, within two years prior to the issuance of the policy, received institutional, hospital, medical or surgical treatment or attention and if the insured or claimant under the policy fails to show that the condition occasioning such treatment or attention was not of a serious nature or was not material to the risk.
- (3) A provision giving the insurer the right to declare the policy void because the insured had been rejected for insurance, unless such right be conditioned upon a showing by the insurer, that knowledge of such rejection would have led to a refusal by the insurer to make such contract.

Sec. 8471.24. Limitation of Liability: The insurer may in any such policy limit its liability for the same causes and to the same extent as is provided in Section 8469.23 for other life insurance contracts.

### PROPERTY INSURANCE

Sec. 8472.01. Over-Insurance Prohibited: 1. Over-Insurance shall be deemed to exist if property or an insurable interest therein is insured by one or more insurance contracts against the same hazard in any amount in excess of the actual cash value of the property or of such interest, as determined as of the effective date of the insurance or of any renewal thereof.

2. For the purposes of this section only, the term actual cash value means the cost of replacement less such depreciation as is properly applicable to the subject insured.

3. No person shall knowingly issue, place, procure, or accept any insurance contract which would result in over-insurance of the property or interest therein proposed to be insured, except as is provided in section 8472.02.

4. Each violation of this section shall subject the violator to the penalties provided by this chapter.

Sec. 8472.02. Exceptions: The provisions of section 8472.01 do not apply to:

- (1) Insurance on buildings and building service equipment pertaining thereto and part thereof, and machinery, tools and other equipment appurtenant to or used in connection with any trade, business, manufacturing process, governmental operations, or public and private institutions, except household furniture and furnishings in dwelling houses, with respect to the difference between the actual value of the insured property at the time any loss or damage occurs and the cost of repairing, rebuilding, or replacing with new materials of like size, kind and quality, such property as has been damaged or destroyed by fire or other peril insured against.
- (2) Insurance against the cost of demolition or reconstruction, or both, of any portion of the insured premises which has not suffered damage, and the additional cost of repair or reconstruction, or both, of portions of the insured premises which have suffered damage, necessary to comply with applicable laws or ordinances.

### **SURETY INSURANCE**

Sec. 8473.01. Requirements Deemed Met by Surety Insurer: Whenever by law or by rule of any court, public official, or public body, any surety bond, recognizance, obligation, stipulation or undertaking is required or is permitted to be given, any such bond, recognizance, obligation, stipulation, or undertaking which is otherwise proper and the conditions of which are guaranteed by an authorized surety insurer, or by an unauthorized surety insurer as a surplus line pursuant to the provisions of sections 8463.01 through 8463.18, of this chapter, shall be approved and accepted and shall be deemed to fulfill all requirements as to number of sureties, residence or status of sureties, and other similar requirements, and no justification by such surety shall be necessary.

Sec. 8473.02. Fiduciary Bonds, Expense: Any fiduciary required by law to give bonds, may include as part of his lawful expense to be allowed by the court or official by whom he was appointed, the reasonable amount paid as premium for such bonds to the authorized surety insurer or to the surplus line surety insurer which issued or guaranteed such bonds.

Sec. 8473.03. Court Bonds, Costs: In any proceeding the party entitled to recover costs may include therein such reasonable sum as was paid to such surety insurer as premium for any bond or undertaking required therein, and as may be allowed by the court having jurisdiction of such proceeding.

Sec. 8473.04. Release from Liability: A surety insurer may be released from its liability on the same terms and conditions as are provided by law for the release of individuals as sureties.

### **UNFAIR PRACTICES AND FRAUDS**

Sec. 8474.01. Purpose of Sections on Unfair Practices: The pur-

pose of sections 8474.01 through 8474.06 is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this Territory which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

Sec. 8474.02. Unfair Competition; Unfair Deceptive Practices Prohibited: No person shall engage in this Territory in any act or practice which is prohibited in sections 8474.01 through 8474.06, or which is defined therein as, or determined pursuant thereto, to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. No person shall be subject to criminal penalties if the act or practice is not defined as aforesaid, but is determined to be an unfair practice by the Commissioner.

Sec. 8474.03. Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined: The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

- (1) Misrepresentations and false advertising of policy contracts:
  - a. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon; or
  - b. making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies; or
  - c. making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates; or
  - d. using any name or title of any policy or class of policies misrepresenting the true nature thereof; or
  - e. making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.
- (2) False information and advertising generally. Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.



- (3) Defamation. Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.
- (4) Boycott, coercion and intimidation. Entering into any agreement to commit, or by any action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.
- (5) False financial statements:
  - a. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive; or
  - b. making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, wilfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.
- (6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.
- (7) Unfair discrimination:
  - a. Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; or
  - b. making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or sickness insurance or in the benefits payable thereunder, or in

any of the terms or conditions of such contract, or in any other manner whatever.

- (8) **Rebates.** Except as otherwise expressly provided by law:
- a. knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and sickness insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or
  - b. giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.
- (9) Nothing in item (7) or item (8) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:
- a. In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, **provided** that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;
  - b. In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;
  - c. Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

Sec. 8474.04. **Power of Commissioner:** The Commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this Territory in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by section 8474.03.

Sec. 8474.05. **Desist Order for Defined or Prohibited Practices:**

1. If, after a hearing thereon of which notice of such hearing and of the charges against him were given such person, the Commissioner finds that any person in this Territory has engaged or is engaging in

any act or practice defined in or prohibited under section 8474.03, the Commissioner shall order such person to desist from such acts or practices.

2. Such desist order shall become final upon expiration of the time allowed for appeals from the Commissioner's orders, if no such appeal is taken, or, in event of such an appeal, upon final decision of the court if the court affirms the Commissioner's order or dismisses the appeal. An intervenor in such hearing shall have the right to appeal as provided in paragraph three of section 8474.06.

3. In event of such an appeal, to the extent that the Commissioner's order is affirmed the court shall issue its own order commanding obedience to the terms of the Commissioner's order.

4. No order of the Commissioner pursuant to this section or order of court to enforce it shall in any way relieve or absolve any person affected by such order from any other liability, penalty, or forfeiture under law.

Sec. 8474.06. Curtailment of Undefined Practices: 1. If the Commissioner believes that any person engaged in the insurance business is engaging in this Territory in any method of competition or in any act or practice in the conduct of such business which is not defined in section 8474.03, but that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the public interest, he shall, after a hearing of which notice of the hearing and of the charges against him are given such person, make a written report of his findings of fact relative to such charges and serve a copy thereof upon such person and any intervenor at the hearing.

2. If such report charges a violation of section 8474.03 and if such method of competition, act or practice has not been discontinued, the Commissioner may, through the Attorney General, at any time after the service of such report, cause an action to be instituted to enjoin and restrain such person from engaging in such method, act, or practice. In such action the court may grant a restraining order or injunction upon such terms as may be just; but this Territory shall not be required to give security before the issuance of any such order or injunction. If a stenographic record of the proceedings in the hearing before the Commissioner was made, a certified transcript thereof including all evidence taken and the report and findings shall be received in evidence in such action.

3. If the Commissioner's report made pursuant to paragraph one of this section or order on hearing made pursuant to section 8474.05 does not charge a violation of section 8474.03, then any intervenor in the proceedings may appeal therefrom within the time and in the manner provided in this chapter for appeals from the Commissioner generally.

## **MERGERS, REHABILITATION, LIQUIDATION**

Sec. 8475.01. Reorganization, Merger or Consolidation: 1. Subject to the provisions of section 8457.08, relating to the mutualization of stock insurers, section 8458.29, relating to the conversion or reinsurance of mutual insurers, and section 8459.30, relating to the con-

solidation or conversion of reciprocal insurers, a domestic insurer may reorganize, or may merge or consolidate with another insurer, subject to the following conditions:

- (1) The plan of reorganization, merger or consolidation shall be submitted to and be approved by the Commissioner in advance of the reorganization, merger or consolidation.
  - (2) The Commissioner shall not approve any such plan unless, after a hearing, he finds that it is fair, equitable, consistent with law, and that no reasonable objection exists. If the Commissioner fails to approve the plan, he shall state his reasons for such failure in his order made on such hearing.
  - (3) No director, officer, member or subscriber of any such insurer, except as is expressly provided by the plan of reorganization, merger or consolidation, shall receive any fee, commission, other compensation or valuable consideration whatsoever, for in any manner aiding, promoting or assisting in the reorganization, merger or consolidation.
  - (4) Any reorganization, merger or consolidation as to an incorporated domestic insurer shall in other respects be governed by the general laws of this Territory relating to business corporations. Except, that as to domestic mutual insurers, approval by two-thirds of its members who vote thereon pursuant to such notice and procedure as was approved by the Commissioner shall constitute approval of the reorganization, merger or consolidation as respects the insurer's members.
2. Reinsurance of all or substantially all of the insurance in force of a domestic insurer by another insurer shall be deemed a consolidation for the purposes of this section.

Sec. 8475.02. Scope: For the purposes of the provisions of sections 8475.01 through 8475.36, other than as to section 8475.01, the term insurer shall be deemed to include all persons purporting to be engaged as insurers in the business of insurance in this Territory, and to persons in process of organization to become insurers.

Sec. 8475.03. Grounds for Rehabilitation: The Commissioner may apply, to the Circuit Court of the first Judicial Circuit of this Territory, for an order directing him to rehabilitate a domestic insurer upon one or more of the following grounds: That the insurer:

- (1) is insolvent; or,
- (2) has refused to submit its books, records, accounts or affairs to the reasonable examination of the Commissioner; or,
- (3) has failed to comply with the Commissioner's order, made pursuant to law, to make good an impairment of capital (if a stock insurer) or an impairment of assets (if a mutual or reciprocal insurer) within the time prescribed by law; or,
- (4) has transferred or attempted to transfer substantially its entire property or business, or has entered into any transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without first having obtained the written approval of the Commissioner; or,

- (5) is found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public; or,
- (6) has wilfully violated its charter or any law of this Territory; or,
- (7) has an officer, director, or manager who has refused to be examined under oath, concerning its affairs, for which purpose the Commissioner is authorized to conduct and to enforce by all appropriate and available means any such examination under oath in any state of the United States, in which any such officer, director or manager may then presently be, to the full extent permitted by the laws of any such other state, this special authorization considered; or,
- (8) has been the subject of an application for the appointment of a receiver, trustee, custodian or sequestrator of the insurer or of its property, or if a receiver, trustee, custodian, or sequestrator is appointed by a Federal court or if such appointment is imminent; or,
- (9) has consented to such an order through a majority of its directors, stockholders, members, or subscribers; or,
- (10) has failed to pay a final judgment rendered against it in any state upon any insurance contract issued or assumed by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final determination, whichever date is the later.

Sec. 8475.04. Order of Rehabilitation - Termination: 1. An order to rehabilitate a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer and to conduct the business thereof, and to take such steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

2. If at any time the Commissioner deems that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

3. The Commissioner, or any interested person upon due notice to the Commissioner, at any time may apply for an order terminating the rehabilitation proceeding and permitting the insurer to resume possession of its property and the conduct of its business, but no such order shall be granted except when, after a full hearing, the court has determined that the purposes of the proceedings have been fully accomplished.

Sec. 8475.05. Grounds for Liquidation: The Commissioner may apply, to the Circuit Court of the First Judicial Circuit of this Territory, for an order directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusted assets in this Territory, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer, upon any of the grounds specified in section 8475.03 or upon any one or more of the following grounds: That the insurer:

- (1) has ceased transacting business for a period of one year; or,
- (2) is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian, or sequestrator under any law except this chapter; or,
- (3) has not organized or completed its organization and obtained a certificate of authority as an insurer prior to the expiration or revocation of its solicitation permit.

Sec. 8475.06. Order of Liquidation: 1. An order to liquidate the business of a domestic insurer shall direct the Commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as Commissioner or in the name of the insurer as the court may direct, to give notice to all creditors who may have claims against the insurer to present such claims.

2. The Commissioner may apply under the provisions of sections 8475.01 through 8475.36 for an order dissolving the corporate existence of a domestic insurer:

- (1) upon his application for an order of liquidation of such insurer, or at any time after such order has been granted; or,
- (2) upon the grounds specified in item (3) of section 8475.05, regardless of whether an order of liquidation is sought or has been obtained.

Sec. 8475.07. Liquidation of Alien Insurers: An order to liquidate the business of the United States branch of an alien insurer having trusted assets in this Territory shall be in the same terms as those prescribed for domestic insurers, except that only the assets of the business of such United States branch shall be included therein.

Sec. 8475.08. Conservation of Assets of Foreign Insurer: The Commissioner may apply, to the Circuit Court of the First Judicial Circuit of this Territory, for an order directing him to conserve the assets within this Territory of a foreign insurer upon any one or more of the following grounds:

- (1) upon any of the grounds specified in items (1) through (9) of section 8475.03 and in item (2) of section 8475.05.
- (2) that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty.

Sec. 8475.09. Conservation of Assets of Alien Insurer: The Commissioner may apply, to the Circuit Court of the First Judicial Circuit of this Territory, for an order directing him to conserve the assets within this Territory of an alien insurer upon any one or more of the following grounds:

- (1) upon any of the grounds specified in items (1) through (9) of section 8475.03 and in item (2) of section 8475.05; or,
- (2) that the insurer has failed to comply, within the time designated by the Commissioner, with an order of the Commissioner pursuant to law to make good an impairment of its trusted funds; or,

- (3) that the property of the insurer has been sequestered in its domiciliary sovereignty or elsewhere.

Sec. 8475.10. Order of Conservation or Ancillary Liquidation of Foreign or Alien Insurers: 1. An order to conserve the assets of a foreign or alien insurer shall direct the Commissioner forthwith to take possession of the property of the insurer within this Territory and to conserve it, subject to the further direction of the court.

2. Whenever a domiciliary receiver is appointed for any such insurer in its domiciliary state which is also a reciprocal state, as defined in section 8475.11, the court shall on application of the Commissioner appoint the Commissioner as the ancillary receiver in this Territory, subject to the provisions of the Uniform Insurers Liquidation Act.

Sec. 8475.11. Uniform Insurers Liquidation Act: This section and sections 8475.12 through 8475.18 comprise and may be cited as the Uniform Insurers Liquidation Act. For the purposes of this Act:

- (1) Delinquency proceeding means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer.
- (2) Domiciliary state means the state in which an insurer is incorporated or organized, or, in the case of an insurer incorporated or organized in a foreign country, the state in which such insurer, having become authorized to do business in such state, has, at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States; and any such insurer is deemed to be domiciled in such state.
- (3) Ancillary state means any state other than a domiciliary state.
- (4) Reciprocal state means any state other than this Territory in which in substance and effect the provisions of this Act are in force, including the provisions requiring that the insurance commissioner or equivalent insurance supervisory official be the receiver of a delinquent insurer.
- (5) General assets means all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or a limited class or classes of persons, and as to such specifically encumbered property the term includes all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and assets held on deposit for the security or benefit of all policyholders, or all policyholders and creditors in the United States, shall be deemed general assets.
- (6) Preferred claim means any claim with respect to which the law of a state or of the United States accords priority of payment from the general assets of the insurer.
- (7) Special deposit claim means any claim secured by a deposit

made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any general assets.

- (8) Secured claim means any claim secured by mortgage, trust, deed, pledge, deposit as security, escrow, or otherwise, but not including special deposit claim or claims against general assets. The term also includes claims which more than four months prior to the commencement of delinquency proceedings in the state of the insurer's domicile have become liens upon specific assets by reason of judicial process.
- (9) Receiver means receiver, liquidator, rehabilitator, or conservator as the context may require.

Sec. 8475.12. Conduct of Delinquency Proceedings Against Insurers Domiciled in This Territory: 1. Whenever under the laws of this Territory a receiver is to be appointed in delinquency proceedings for an insurer domiciled in this Territory, the Circuit Court of the First Judicial Circuit of this Territory shall appoint the Commissioner as such receiver. The court shall direct the Commissioner forthwith to take possession of the assets of the insurer and to administer the same under the orders of the court.

2. As domiciliary receiver the Commissioner shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer, or to liquidate the United States branch of an alien insurer domiciled in this Territory, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are hereinafter prescribed for ancillary receivers appointed in this Territory as to assets located in this Territory.

3. The filing or recording of the order directing possession to be taken, or a certified copy thereof, in the office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

4. The Commissioner as domiciliary receiver shall be responsible on his official bond for the proper administration of all assets coming into his possession or control. The court may at any time require an additional bond from him or his deputies if deemed desirable for the protection of the assets.

5. Upon taking possession of the assets of an insurer the domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take such steps as are authorized by the laws of this Territory for the purpose of liquidating, rehabilitating, reorganizing, or conserving the affairs of the insurer.

6. In connection with delinquency proceedings the Commissioner may appoint one or more special deputy commissioners to act for him, and may employ such counsel, clerks, and assistants as he deems necessary. The compensation of the special deputies, counsel,



clerks, or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of the duties imposed upon them special deputies shall possess all the powers given to, and, in the exercise of those powers, shall be subject to all of the duties imposed upon the receiver with respect to such proceedings.

Sec. 8475.13. Conduct of Delinquency Proceedings Against Insurers Not Domiciled in This Territory: 1. Whenever under the laws of this Territory an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this Territory, the Circuit Court of the First Judicial Circuit of this Territory, shall appoint the Commissioner as ancillary receiver. The Commissioner shall file a petition requesting the appointment:

- (1) if he finds that there are sufficient assets of such insurer located in this Territory to justify the appointment of an ancillary receiver; or,
- (2) if ten or more persons resident in this Territory having claims against such insurer file a petition with the Commissioner requesting the appointment of such ancillary receiver.

2. The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state, shall be vested by operation of law with the title to all of the property, contracts, and rights of action, and all of the books and records of the insurer located in this Territory, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this Territory. He shall also be entitled to recover the other assets of the insurer located in this Territory except that upon the appointment of an ancillary receiver in this Territory, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover such other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this Territory, and shall pay the necessary expenses of the proceedings. All remaining assets he shall promptly transfer to the domiciliary receiver. Subject to the foregoing provisions the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of such assets, as a receiver of an insured domiciled in this Territory.

3. The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this Territory to recover any assets of such insurer to which he may be entitled under the laws of this Territory.

Sec. 8475.14. Claims of Nonresidents Against Domestic Insurers:

1. In a delinquency proceeding begun in this Territory against an insurer domiciled in this Territory, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

2. Controverted claims belonging to claimants residing in reciprocal states may either:

- (1) be proved in this Territory as provided by law; or
- (2) if ancillary proceedings have been commenced in such reciprocal states, may be proved in those proceedings.

3. In the event a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and an opportunity to appear and be heard is afforded the domiciliary receiver of this Territory as provided in section 8475.15 with respect to ancillary proceedings in this Territory, the final allowance of such claim by the courts in the ancillary state shall be accepted in this Territory as conclusive as to its amount, and shall also be accepted as conclusive as to its priority, if any, against special deposits or other security located within the ancillary state.

Sec. 8475.15. Claims Against Foreign Insurers: 1. In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants, against such insurer, who reside within this Territory may file claims either with the ancillary receiver, if any, appointed in this Territory, or with the domiciliary receiver. All such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceeding.

2. Controverted claims belonging to claimants residing in this Territory may either:

- (1) be proved in the domiciliary state as provided by the law of that state; or,
- (2) if ancillary proceedings have been commenced in this Territory, be proved in those proceedings.

3. In the event that any such claimant elects to prove his claim in this Territory, he shall file his claim with the ancillary receiver in the manner provided by the law of this Territory for the proving of claims against insurers domiciled in this Territory, and he shall give notice in writing to the receiver in the domiciliary state either by registered mail or by personal service at least forty days prior to the date set for hearing. The notice shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any. If the domiciliary receiver, within thirty days after the giving of such notice, shall give notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest such claim, he shall be entitled to appear or to be represented in any proceeding in this Territory involving the adjudication of the claim. The final allowance of the claim by the courts of this Territory shall be accepted as conclusive as to its amount, and shall also be accepted as conclusive as to its priority if any against special deposits or other security located within this Territory.

Sec. 8475.16. Priority of Certain Claims: 1. In a delinquency proceeding against an insurer domiciled in this Territory, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this Territory. All such claims owing to residents or nonresidents shall be given equal priority of

payment from general assets regardless of where such assets are located.

2. In a delinquency proceeding against an insurer domiciled in a reciprocal state, claims owing to residents of this Territory shall be preferred if like claims are preferred by the laws of that state.

3. The owners of special deposit claims against an insurer for which a receiver is appointed in this Territory, or any other state, shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, but such sharing shall be deferred until general creditors, and also claimants against other special deposits who have received smaller percentages from their respective special deposits, have been paid percentages of their claims equal to the percentage paid from the special deposit.

4. The owner of a secured claim against an insurer for which a receiver has been appointed in this Territory, or any other state, may surrender his security and file his claim as a general creditor, or the claim may be discharged by resort to the security, in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer on the same basis as claims of unsecured creditors. If the amount of the deficiency has been adjudicated in ancillary proceedings as provided in this Act, or if it has been adjudicated by a court of competent jurisdiction in proceedings in which the domiciliary receiver has had notice and opportunity to be heard, such amount shall be conclusive; otherwise the amount shall be determined in the delinquency proceeding in the domiciliary state.

Sec. 8475.17. Attachment and Garnishment of Assets: During the pendency of delinquency proceedings in this Territory, or any reciprocal state, no action or proceeding in the nature of an attachment, garnishment, or execution shall be commenced or maintained in the courts of this Territory against the delinquent insurer or its assets. Any lien obtained by any such action or proceeding within four months prior to the commencement of any such delinquency proceeding or at any time thereafter shall be void as against any rights arising in such delinquency proceeding.

Sec. 8475.18. Uniformity of Interpretation: This Uniform Insurers Liquidation Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states that enact it. To the extent that its provisions, when applicable, conflict with other provisions of sections 8475.01 through 8475.36, the provisions of sections 8475.11 through 8475.18 shall control.

Sec. 8475.19. Commencement of a Proceeding: 1. Proceedings under the provisions of sections 8475.01 through 8475.36 shall be commenced in the Circuit Court of the First Judicial Circuit of this Territory.

2. The Commissioner shall commence any such proceeding, the Attorney General representing him, by an application to the court or to any judge thereof, for an order directing the insurer to show cause why the Commissioner should not have the relief prayed for. On

the return of such order to show cause, and after a full hearing, the court shall either deny the application or grant the application together with such other relief as the nature of the case and the interests of policyholders, creditors, stockholders, members, subscribers, or the public may require.

Sec. 8475.20. Injunctions: 1. Upon application by the Commissioner for such an order to show cause or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents, and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

2. The court may at any time during a proceeding under the provisions of sections 8475.01 through 8475.36 issue such other injunctions or orders as may be deemed necessary to prevent interference with the Commissioner or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part thereof.

Sec. 8475.21. Removal of Proceedings: At any time after the commencement of a proceeding under the provisions of sections 8475.01 through 8475.36, the Commissioner may apply to the court for an order changing the venue of, and removing the proceeding from the City and County of Honolulu to any other county of this Territory in which he deems that such proceeding may be most economically and efficiently conducted.

Sec. 8475.22. Deposit of Moneys Collected: The moneys collected by the Commissioner in a proceeding under the provisions of sections 8475.01 through 8475.36 shall be, from time to time, deposited in one or more Territory or national banks, and in the case of the insolvency or voluntary or involuntary liquidation of any such depository which is an institution organized and supervised under the laws of this Territory, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking law of this Territory. The Commissioner may in his discretion deposit such moneys or any part thereof in a national bank or trust company as a trust fund.

Sec. 8475.23. Exemption from Filing Fees: The Commissioner shall not be required to pay any fee to any public officer in this Territory for filing, recording, issuing a transcript or certificate, or authenticating any paper or instrument pertaining to the exercise by the Commissioner of any of the powers or duties conferred upon him under the provisions of sections 8475.01 through 8475.36, whether or not such paper or instrument be executed by the Commissioner or his deputies, employees, or attorneys of record and whether or not it is connected with the commencement of an action or proceeding by or against the Commissioner, or with the subsequent conduct of such action or proceeding.

Sec. 8475.24. Borrowing on Pledge of Assets: For the purpose of facilitating the rehabilitation, liquidation, conservation or disso-

lution of an insurer pursuant to the provisions of sections 8475.01 through 8475.36, the Commissioner may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property whether real, personal or mixed of such insurer, and the Commissioner, subject to the approval of the court, shall have power to take any and all other action necessary and proper to consummate any such loans and to provide for the repayment thereof. The Commissioner shall be under no obligation personally or in his official capacity as Commissioner to repay any loan made pursuant to this section.

Sec. 8475.25. Annual Report: The Commissioner shall include in his annual report, the names of all insurers proceeded against under the provisions of sections 8475.01 through 8475.36, together with such facts as shall acquaint the policyholders, creditors, stockholders, and the public with the proceedings. To that end the special deputy commissioner in charge of any such insurer shall file annually with the Commissioner a report of the affairs of the insurer.

Sec. 8475.26. Date Rights Fixed on Liquidation: The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers, and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of section 8475.30 with respect to the rights of claimants holding contingent claims.

Sec. 8475.27. Voidable Transfers: 1. Any transfer of, or lien upon, the property of an insurer which is made or created within four months prior to the granting of an order to show cause under the provisions of sections 8475.01 through 8475.36, with the intent of giving to any creditor or of enabling him to obtain a greater percentage of his debt than any other creditor of the same class and which is accepted by such creditor having reasonable cause to believe that such a preference will occur, shall be voidable.

2. Every director, officer, employee, stockholder, member, subscriber, and any other person acting on behalf of such insurer who shall be concerned in any such act or deed and every person receiving thereby any property of such insurer or the benefit thereof shall be personally liable therefor and shall be bound to account to the Commissioner.

3. The Commissioner as liquidator, rehabilitator or conservator in any proceeding under the provisions of sections 8475.01 through 8475.36, may avoid any transfer of, or lien upon the property of an insurer which any creditor, stockholder, subscriber or member of such insurer might have avoided and may recover the property so transferred unless such person was a bona fide holder for value prior to the date of the granting of an order to show cause under the provisions of sections 8475.01 through 8475.36. Such property or its value may be recovered from anyone who has received it except a bona fide holder for value as above specified.

Sec. 8475.28. Priority of Claims for Compensation: 1. Compensation actually owing to employees other than officers of an insurer, for services rendered within three months prior to the commencement of a proceeding against the insurer under the provisions of sections 8475.01 through 8475.36, but not exceeding three hundred dollars for each such employee, shall be paid prior to the payment of any other debt or claim, and in the discretion of the Commissioner may be paid as soon as practicable after the proceeding has been commenced; except, that at all times the Commissioner shall reserve such funds as will in his opinion be sufficient for the expenses of administration.

2. Such priority shall be in lieu of any other similar priority which may be authorized by law as to the wages or compensation of such employees.

Sec. 8475.29. Offsets: 1. In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under the provisions of sections 8475.01 through 8475.36, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in paragraph two of this section.

2. No offset shall be allowed in favor of any such person where:

- (1) the obligation of the insurer to such person would not at the date of the entry of any liquidation order, or otherwise, as provided in section 8475.26, entitle him to share as a claimant in the assets of the insurer; or
- (2) the obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as an offset; or
- (3) the obligation of such person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon a subscription to the capital stock of a stock insurer.

Sec. 8475.30. Allowance of Certain Claims: 1. No contingent claim shall share in a distribution of the assets of an insurer, which has been adjudicated to be insolvent, by an order made pursuant to section 8475.31 except that such claims shall be considered, if properly presented, and may be allowed to share where:

- (1) such claim becomes absolute against the insurer on or before the last day fixed for filing of proofs of claim against the assets of such insurer, or
- (2) there is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

2. Where an insurer has been so adjudicated to be insolvent any person who has a cause of action against an insured of such insurer under a liability insurance policy issued by such insurer, shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed:

- (1) if it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a

judgment upon such cause of action against such insured;  
and,

- (2) if such person shall furnish suitable proof, unless the court for good cause shown shall otherwise direct, that no further valid claims against such insurer arising out of his cause of action other than those already presented can be made; and,
- (3) if the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be were it not in liquidation.

No judgment against such an insured taken after the date of the entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, inquest or by collusion prior to the entry of the liquidation order shall be considered as conclusive evidence in the liquidation proceeding either of the liability of such insured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

3. No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or such other date set by the court for fixation of rights and liabilities as provided in section 8475.26 unless the claimant shall surrender his security to the Commissioner in which event the claim shall be allowed in the full amount for which it is valued.

Sec. 8475.31. Time to File Claims: 1. If upon the granting of an order of liquidation under the provisions of sections 8475.01 through 8475.36, or at any time thereafter during the liquidation proceeding, the insurer shall not be clearly solvent, the court shall after such notice and hearing as it deems proper, make an order declaring the insurer to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the Commissioner shall notify all persons who may have claims against such insurer and who have not filed proper proofs thereof, to present the same to him, at a place specified in such notice, within four months from the date of the entry of such order, or, if the Commissioner shall certify that it is necessary, within such longer time as the court shall prescribe. The last day for the filing of proofs of claim shall be specified in the notice. Such notice shall be given in a manner determined by the court.

2. Proofs of claim may be filed subsequent to the date specified, but, no such claim shall share in the distribution of the assets until all allowed claims, proofs of which have been filed before said date, have been paid in full with interest.

Sec. 8475.32. Report for Assessment: Within three years from the date an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer was filed in the office of the clerk of the court by which such order was made, the Commissioner may make a report to the court setting forth:

- (1) the reasonable value of the assets of the insurer;
- (2) the insurer's probable liabilities; and,

- (3) the probable necessary assessment, if any, to pay all claims and expenses in full, including expenses of administration.

Sec. 8475.33. Levy of Assessment: 1. Upon the basis of the report provided for in section 8475.32 including any amendments thereof, the court, ex parte, may levy one or more assessments against all members of such insurer who, as shown by the records of the insurer, were members (if a mutual insurer) or subscribers (if a reciprocal insurer) at any time within one year prior to the date of issuance of the order to show cause under section 8475.19.

2. Such assessment or assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the estimated cost of collection and percentage of uncollectibility thereof. The total of all assessments against any member or subscriber with respect to any policy, whether levied pursuant to the provisions of sections 8475.01 through 8475.36, or pursuant to any other provisions of this chapter, shall be for no greater amount than that specified in the policy or policies of the member or subscriber and as limited under this chapter; except that if the court finds that the policy was issued at a rate of premium below the minimum rate lawfully permitted for the risk of insured, the court may determine the upper limit of such assessment upon the basis of such minimum rate.

3. No assessment shall be levied against any member or subscriber with respect to any nonassessable policy issued in accordance with this chapter.

Sec. 8475.34. Order to Pay Assessment: After levy of assessment as provided in section 8475.33, upon the filing of a further detailed report by the Commissioner, the court shall issue an order directing each member (if a mutual insurer) or each subscriber (if a reciprocal insurer) if he shall not pay the amount assessed against him to the Commissioner on or before a day to be specified in the order, to show cause why he should not be held liable to pay such assessment together with costs as set forth in section 8475.36 and why the Commissioner should not have judgment therefor.

Sec. 8475.35. Publication and Transmittal of Assessment Order: The Commissioner shall cause a notice of such assessment order setting forth a brief summary of the contents of such order to be:

- (1) published in such manner as shall be directed by the court; and,
- (2) enclosed in a sealed envelope, addressed and mailed postage prepaid to each member or subscriber liable thereunder at his last known address as it appears on the records of the insurer, at least twenty days before the return day of the order to show cause provided for in section 8475.34.

Sec. 8475.36. Judgment Upon the Assessment: 1. On the return day of the order to show cause provided for in section 8475.34 if the member or subscriber does not appear and serve verified objections upon the Commissioner, the court shall make an order adjudging that such member or subscriber is liable for the amount of the assessment against him together with ten dollars costs, and that the



Commissioner may have judgment against the member or subscriber therefor.

2. If on such return day the member or subscriber shall appear and serve verified objections upon the Commissioner there shall be a full hearing before the court or a referee to hear and determine, who, after such hearing, shall make an order either negating the liability of the member or subscriber to pay the assessment or affirming his liability to pay the whole or some part thereof together with twenty-five dollars costs and the necessary disbursements incurred at such hearing, and directing that the Commissioner in the latter case may have judgment therefor.

3. A judgment upon any such order shall have the same force and effect, and may be entered and docketed, and may be appealed from as if it were a judgment in an original action brought in the court in which the proceeding is pending.

### **RATES OF CASUALTY, VEHICLE AND SURETY INSURERS**

Sec. 8476.01. Purpose: 1. The purpose of sections 8476.01 through 8476.17, hereinafter referred to as the casualty rating law, is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of the casualty rating law. Nothing in the casualty rating law is intended:

- (1) to prohibit or discourage reasonable competition, or
- (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices.

2. The casualty rating law shall be liberally interpreted to carry into effect the provisions of paragraph one of this section.

Sec. 8476.02. Scope: 1. The casualty rating law shall apply to all classes, types or forms of general casualty insurance as defined in section 8451.12 and surety insurance as defined in section 8451.13, to all other classes, types or forms of motor vehicle insurance and to all workmen's compensation and employers' liability insurance, on risks or operations in this Territory, except:

- (1) reinsurance, other than joint reinsurance to the extent stated in section 8476.11;
- (2) disability insurance;
- (3) insurance against loss or damage to aircraft or against liability, other than workmen's compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft.

2. If any class of insurance, subdivision or combination thereof, or type of coverage subject to the casualty rating law is also subject to regulation under sections 8477.01 through 8477.16, an insurer to which both the casualty rating law and sections 8477.01 through 8477.16 are otherwise applicable shall file with the Commissioner a designation as to whether the provisions of the casualty rating law or those of sections 8477.01 through 8477.16 shall be applicable to it with respect to such class of insurance, subdivision or combination

thereof, or type of coverage. Such filing may be made on behalf of the insurer by any licensed rating organization of which it is a member or subscriber.

Sec. 8476.03. Making of Rates: 1. All rates shall be made in accordance with the following provisions:

- (1) Due consideration shall be given to past and prospective loss experience within and outside this Territory, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this Territory, and to all other relevant factors within and outside this Territory.
  - (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.
  - (3) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.
  - (4) Rates shall not be excessive, inadequate, or unfairly discriminatory.
2. Except to the extent necessary to meet the provisions of item (4) of paragraph one of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

Sec. 8476.04. Rate Filings: 1. Every insurer shall file with the Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the Commissioner does not have sufficient information to determine whether such filing meets the requirements of the casualty rating law, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include:

- (1) the experience or judgment of the insurer or rating organization making the filing,
- (2) its interpretation of any statistical data it relies upon,

- (3) the experience of other insurers or rating organizations, or
- (4) any other relevant factors.
2. A filing and any supporting information shall be open to public inspection after the filing becomes effective.
3. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Commissioner to accept such filings on its behalf; **provided**, that nothing contained in the casualty rating law shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.
4. The Commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the casualty rating law.
5. Subject to the exception specified in paragraph six of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the Commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the Commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of the casualty rating law unless disapproved by the Commissioner within the waiting period or any extension thereof.
6. Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of the casualty rating law until such time as the Commissioner reviews the filing and so long thereafter as the filing remains in effect.
7. Under such rules and regulations as he shall adopt the Commissioner may, by written order, suspend or modify the requirement of filing as to any class of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in item (4) of paragraph one of section 8476.03.
8. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.
9. No insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided

in the casualty rating law or in accordance with paragraph seven or eight of this section.

Sec. 8476.05. Disapproval of Filings: 1. If within the waiting period or any extension thereof as provided in paragraph five of section 8476.04, the Commissioner finds that a filing does not meet the requirements of the casualty rating law, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of the casualty rating law and stating that such filing shall not become effective.

2. If within thirty days after a special surety or guaranty filing subject to paragraph six of section 8476.04 has become effective, the Commissioner finds that such filing does not meet the requirements of the casualty rating law, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of the casualty rating law and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

3. If at any time subsequent to the applicable review period provided for in paragraph one or two of this section, the Commissioner finds that a filing does not meet the requirements of the casualty rating law, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of the casualty rating law, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

4. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the Commissioner for a hearing thereon, provided, however, that the insurer or rating organization that made the filing shall not be authorized to proceed under this paragraph. Such application shall specify the grounds to be relied upon by the applicant. If the Commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing. If, after such hearing, the Commissioner finds that the filing does not meet the requirements of the casualty rating law, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of the casualty rating law, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said

order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

5. No manual of classifications, rules, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 8476.04 shall be disapproved if the rates thereby produced meet the requirements of the casualty rating law.

Sec. 8476.06. Rating Organizations: 1. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this Territory, may make application to the Commissioner for license as a rating organization for such classes of insurance or subdivisions thereof as are specified in its application and shall file therewith:

- (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business,
- (2) a list of its members and subscribers,
- (3) the name and address of a resident of this Territory upon whom notices or orders of the Commissioner or process affecting such rating organization may be served, and
- (4) a statement of its qualifications as a rating organization.

2. If the Commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the classes of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the Commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the Commissioner. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the Commissioner after hearing upon notice, in the event the rating organization ceases to meet the requirements of paragraphs one and two of this section. Every rating organization shall notify the Commissioner promptly of every change in:

- (1) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business,
- (2) its list of members and subscribers, and
- (3) the name and address of the resident of this Territory designated by it upon whom notices or orders of the Commissioner or process affecting such rating organization may be served.

3. Subject to rules and regulations which have been approved by the Commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for

any class of insurance or subdivision thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the Commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the Commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the Commissioner as if the application had been rejected. If the Commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

4. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

5. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of the casualty rating law is hereby authorized, **provided** the filings resulting from such cooperation are subject to all the provisions of the casualty rating law which are applicable to filings generally. The Commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the casualty rating law, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the casualty rating law, and requiring the discontinuance of such activity or practice.

Sec. 8476.07. Deviations: Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the Commissioner for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a class of insurance, or for a class of insurance which is found by the Commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a class of insurance:

- (1) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or
- (2) for which separate expense provisions are included in the filings of the rating organization.

Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization. The Commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the Commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. The Commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the Commissioner.

Sec. 8476.08. Appeal by Minority: 1. Any member of or subscriber to a rating organization may appeal to the Commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the Commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the findings, within a reasonable time after the issuance of such order.

2. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in item (2) of paragraph one of section 8476.03, from the system of expense provisions included in a filing made by the rating organization, the Commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the Commissioner shall apply the standards set forth in section 8476.03.

Sec. 8476.09. Information to be Furnished Insureds; Hearings and Appeals of Insureds: 1. Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it or to the authorized representative of such insured, all pertinent information as to such rate.

2. Every rating organization and every insurer which makes its own rates shall provide within this Territory reasonable means whereby any person aggrieved by the application of its rating system may be

heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the Commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

Sec. 8476.10. Advisory Organizations: 1. Every group, association or other organization of insurers, whether located within or outside this Territory, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under the casualty rating law, shall be known as an advisory organization.

2. Every advisory organization shall file with the Commissioner:

- (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities,
- (2) a list of its members,
- (3) the name and address of a resident of this Territory upon whom notices or orders of the Commissioner or process issued at his direction may be served, and
- (4) an agreement that the Commissioner may examine such advisory organization in accordance with the provisions of section 8476.12.

3. If, after a hearing, the Commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of the casualty rating law, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the casualty rating law, and requiring the discontinuance of such act or practice.

4. No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the Commissioner involving such statistics or recommendations issued under paragraph three of this section. If the Commissioner finds such insurer or rating organization to be in violation of this paragraph he may issue an order requiring the discontinuance of such violation.

Sec. 8476.11. Joint Underwriting or Joint Reinsurance: 1. Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of the casualty rating law and, with respect to joint reinsurance, to sections 8476.12, 8476.16 and 8476.17.



2. If, after a hearing, the Commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of the casualty rating law, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the casualty rating law, and requiring the discontinuance of such activity or practice.

Sec. 8476.12. Examinations: The Commissioner shall at least once in five years, make or cause to be made an examination of each rating organization licensed in this Territory as provided in section 8476.06 and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 8476.10 and of each group, association or other organization referred to in section 8476.11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officer, manager, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the Commissioner may accept the report of an examination made by the insurance supervisory official of any state, pursuant to the laws of such state.

Sec. 8476.13. Rate Administration: 1. Recording and reporting of loss and expense experience. The Commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 8476.03. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this Territory and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the Commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states and this Territory, to the rules and to the form of the plans used for such rating systems in the states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The Commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the Commissioner, to insurers and rating organizations.

2. Interchange of rating plan data. Reasonable rules and plans may

be promulgated by the Commissioner for the interchange of data necessary for the application of rating plans.

3. Consultation with any states. In order to further uniform administration of rate regulatory laws, the Commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in any state and may consult with them with respect to rate making and the application of rating systems.

4. Rules and regulations. The Commissioner may make reasonable rules and regulations necessary to effect the purposes of the casualty rating law.

Sec. 8476.14. False or Misleading Information: No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the Commissioner, any statistical agency designated by the Commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under the casualty rating law. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 8476.16.

Sec. 8476.15. Assigned Risks: Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the Commissioner.

Sec. 8476.16. Penalties: 1. The Commissioner may, if he finds any person or organization has violated any provision of the casualty rating law, impose a penalty of not more than fifty dollars for each such violation, but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars for each such violation. Such penalties may be in addition to any other penalty provided by law.

2. The Commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the Commissioner within the time limited by such order, or any extension thereof which the Commissioner may grant. The Commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The Commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

3. No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the Commissioner, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

Sec. 8476.17. Hearing Procedure and Judicial Review: 1. Any insurer or rating organization aggrieved by any order or decision of the Commissioner made without a hearing, may, within thirty days after notice of the order to the insurer or organizations, make written request to the Commissioner for a hearing thereon. The Commissioner shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the Commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the Commissioner may suspend or postpone the effective date of his previous action.

2. Nothing contained in the casualty rating law shall require the observance at any hearing of formal rules of pleading or evidence.

3. If application therefor be made within ten days after the making of any order or decision of the Commissioner the same may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be had upon the record and the evidence presented before the Commissioner and no additional evidence shall be presented before the court. If either party on appeal shall offer to present material evidence different from or in addition to the evidence presented to the Commissioner, the court shall continue the case and immediately return the record to the Commissioner for further hearing or hearings at which either party may present additional evidence, and thereupon the Commissioner shall make such further order as the case may require and make return of the evidence and order to the court. The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the Commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Commissioner in whole or in part.

### **RATES OF PROPERTY AND MARINE AND TRANSPORTATION INSURERS**

Sec. 8477.01. Purpose: 1. The purpose of sections 8477.01 through 8477.16, hereinafter referred to as the fire rating law, is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of the fire rating law. Nothing in the fire rating law is intended:

- (1) to prohibit or discourage reasonable competition, or
- (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices.

2. The fire rating law shall be liberally interpreted to carry into effect the provisions of paragraph one of this section.

Sec. 8477.02. Scope: 1. The provisions of the fire rating law shall apply to all property insurance as defined in section 8451.09 and to all marine and transportation insurance as defined in section

8451.10 on risks located in this Territory. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the Commissioner, or as established by general custom of the business, as inland marine insurance. Inland marine insurance is used herein in its generally accepted trade sense. Marine insurance is used herein in its generally accepted trade sense.

2. The provisions of the fire rating law shall not apply to:

- (1) reinsurance, other than joint reinsurance to the extent stated in section 8477.11;
- (2) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;
- (3) insurance of hulls of aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance or use of aircraft;
- (4) motor vehicle insurance, nor to insurance against liability arising out of the ownership, maintenance or use of motor vehicles.

3. If any class of insurance, subdivision or combination thereof, or type of coverage subject to the fire rating law is also subject to regulation under sections 8476.01 through 8476.17, an insurer to which both the fire rating law and sections 8476.01 through 8476.17 are otherwise applicable shall file with the Commissioner a designation as to whether the provisions of the fire rating law or those of sections 8476.01 through 8476.17 shall be applicable to it with respect to such class of insurance, subdivision or combination thereof, or type of coverage. Such filing may be made on behalf of the insurer by any licensed rating organization of which it is a member or subscriber.

Sec. 8477.03. Making of Rates: 1. Rates shall be made in accordance with the following provisions:

- (1) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.
- (2) Rates shall not be excessive, inadequate or unfairly discriminatory.
- (3) Due consideration shall be given to past and prospective loss experience within and outside this Territory, to the conflagration and catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this Territory, and to all other relevant factors within and outside this Territory; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five year period for which such experience is available.

2. Except to the extent necessary to meet the provisions of item (2)

of paragraph one of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

3. Rates made in accordance with this section may be used subject to the provisions of the fire rating law.

Sec. 8477.04. Rate Filings: 1. Every insurer shall file with the Commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the Commissioner does not have sufficient information to determine whether such filing meets the requirements of the fire rating law, he shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. The information furnished in support of a filing may include:

- (1) the experience or judgment of the insurer or rating organization making the filing,
- (2) its interpretation of any statistical data it relies upon,
- (3) the experience of other insurers or rating organizations, or
- (4) any other relevant factors.

2. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

3. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the Commissioner.

4. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Commissioner to accept such filings on its behalf; **provided**, that nothing contained in the fire rating law shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

5. The Commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of the fire rating law.

6. Subject to the exception specified in paragraph seven of this section, each filing shall be on file for a waiting period of fifteen days before it becomes effective, which period may be extended by the Commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the Commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of the fire rating law unless disapproved by the Commissioner within the waiting period or any extension thereof.

7. Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of the fire rating law until such time as the Commissioner reviews the filing and so long thereafter as the filing remains in effect.

8. Under such rules and regulations as he shall adopt the Commissioner may, by written order, suspend or modify the requirement of filing as to any class of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The Commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in item (2) of paragraph one of section 8477.03.

9. Upon the written application of the insured, stating his reasons therefor, filed with and approved by the Commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

10. No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for said insurer as provided in the fire rating law or in accordance with paragraph eight or nine of this section. This paragraph shall not apply to contracts or policies for inland marine risks as to which filings are not required.

Sec. 8477.05. Disapproval of Filings: 1. If within the waiting period or any extension thereof as provided in paragraph six of section 8477.04, the Commissioner finds that a filing does not meet the requirements of the fire rating law, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of the fire rating law and stating that such filing shall not become effective.

2. If within thirty days after a specific inland marine rate on a risk specially rated by a rating organization, subject to paragraph seven of section 8477.04 has become effective, the Commissioner finds that such filing does not meet the requirements of the fire rating law, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of the fire rating law and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

3. If at any time subsequent to the applicable review period provided for in paragraph one or two of this section, the Commissioner finds that a filing does not meet the requirements of the fire rating law, he shall, after a hearing held upon not less than ten days' written notice, specifying the matters to be considered at such hearing, to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of the fire rating law, and stating when, within a reasonable period thereafter, such filing shall be deemed no

longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

4. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the Commissioner for a hearing thereon, **provided**, however, that the insurers or rating organization that made the filing shall not be authorized to proceed under this paragraph. Such application shall specify the grounds to be relied upon by the applicant. If the Commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify such a hearing, he shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made such filing. If, after such hearing, the Commissioner finds that the filing does not meet the requirements of the fire rating law, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of the fire rating law, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

5. No manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing which has been filed pursuant to the requirements of section 8477.04 shall be disapproved if the rates thereby produced meet the requirements of the fire rating law.

Sec. 8477.06. Rating Organizations: 1. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this Territory, may make application to the Commissioner for license as a rating organization for such classes of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith:

- (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business.
  - (2) a list of its members and subscribers,
  - (3) the name and address of a resident of this Territory upon whom notices or orders of the Commissioner or process affecting such rating organization may be served, and
  - (4) a statement of its qualifications as a rating organization.
2. If the Commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the classes of insurance, or subdivision or class of risk or part or combination thereof for which the applicant is authorized to act as a rating organization. Every

such application shall be granted or denied in whole or in part by the Commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the Commissioner. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the Commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of paragraphs one and two of this section. Every rating organization shall notify the Commissioner promptly of every change in:

- (1) Its constitution, its articles of agreement or association, or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business.
- (2) its list of members and subscribers, and
- (3) the name and address of the resident of this Territory designated by it upon whom notices or orders of the Commissioner or process affecting such rating organization may be served.

3. Subject to rules and regulations which have been approved by the Commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any class of insurance, subdivision, or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the Commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the Commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the Commissioner as if the application had been rejected. If the Commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

4. No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

5. Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of the fire rating law is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of



the fire rating law which are applicable to filings generally. The Commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the fire rating law, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the fire rating law, and requiring the discontinuance of such activity or practice.

6. Any rating organization may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the Commissioner thereof. All information so submitted for examination shall be confidential.

7. Any rating organization may subscribe for or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

Sec. 8477.07. Deviations: Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the Commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any class of insurance, or class of risk within a class of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The Commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the Commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation the Commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 8477.03. The Commissioner shall issue an order permitting the deviation for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the resulting premium would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the Commissioner.

Sec. 8477.08. Appeal by Minority: Any member of or subscriber to a rating organization may appeal to the Commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the Commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant and to

such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

Sec. 8477.09. Information to be Furnished Insureds; Hearings and Appeals of Insureds: 1. Every rating organization and every insurer which makes its own rates, shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

2. Every rating organization and every insurer which makes its own rates shall provide within this Territory reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the Commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

Sec. 8477.10. Advisory Organizations: 1. Every group, association or other organization of insurers, whether located within or outside this Territory, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under the fire rating law, shall be known as an advisory organization.

2. Every advisory organization shall file with the Commissioner:

- (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities,
- (2) a list of its members,
- (3) the name and address of a resident of this Territory upon whom notices or orders of the Commissioner or process issued at his direction may be served, and
- (4) an agreement that the Commissioner may examine such advisory organization in accordance with the provisions of section 8477.12.

3. If, after a hearing, the Commissioner finds that the furnishing of such information or assistance involves an act or practice which is

unfair or unreasonable or otherwise inconsistent with the provisions of the fire rating law, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the fire rating law, and requiring the discontinuance of such act or practice.

4. No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the Commissioner involving such statistics or recommendations issued under paragraph three of this section. If the Commissioner finds such insurer or rating organization to be in violation of this paragraph he may issue an order requiring the discontinuance of such violation.

Sec. 8477.11. Joint Underwriting or Joint Reinsurance: 1. Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting to all other provisions of the fire rating law and, with respect to joint reinsurance, to sections 8477.12, 8477.15 and 8477.16.

2. If, after a hearing the Commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of the fire rating law, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of the fire rating law, and requiring the discontinuance of such activity or practice.

Sec. 8477.12. Examinations: The Commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this Territory as provided in section 8477.06 and he may, as often as he may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section 8477.10 and of each group, association or other organization referred to in section 8477.11. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, managers, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. In lieu of any such examination the Commissioner may accept the report of an examination made by the insurance supervisory official of any state, pursuant to the laws of such state.

Sec. 8477.13. Rate Administration: 1. Recording and reporting of loss and expense experience. The Commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense ex-

perience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 8477.03. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this Territory and are not susceptible of determination by a prorating of countrywide expense experience. In promulgating such rules and plans, the Commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states and this Territory, to the rules and to the form of the plans used for such rating systems in the states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The Commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the Commissioner to insurers and rating organizations.

2. Interchange of rating plan data. Reasonable rules and plans may be promulgated by the Commissioner for the interchange of data necessary for the application of rating plans.

3. Consultation with states. In order to further uniform administration of rate regulatory laws, the Commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in any state and may consult with them with respect to rate making and the application of rating systems.

4. Rules and regulations. The Commissioner may make reasonable rules and regulations necessary to effect the purposes of the fire rating law.

Sec. 8477.14. False or Misleading Information: No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the Commissioner, any statistical agency designated by the Commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under the fire rating law. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 8477.15.

Sec. 8477.15. Penalties: 1. The Commissioner may, if he finds that any person or organization has violated any provision of the fire rating law, impose a penalty of not more than fifty dollars for each such violation but if he finds such violation to be wilful he may impose a penalty of not more than five hundred dollars for each such violation. Such penalties may be in addition to any other penalty provided by law.

2. The Commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the Commissioner within the time limited by such order, or any extension thereof which the Commissioner may grant. The Commissioner shall not suspend the license of any rating organization or insurer for fail-

ure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The Commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

3. No penalty shall be imposed and no license shall be suspended or revoked except upon a written order of the Commissioner, stating his findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

Sec. 8477.16. Hearing Procedure and Judicial Review: 1. Any insurer or rating organization aggrieved by any order or decision of the Commissioner made without a hearing, may, within thirty days after notice of the order to the insurer or organization, make written request to the Commissioner for a hearing thereon. The Commissioner shall hear such party or parties within twenty days after receipt of such request and shall give not less than ten days' written notice of the time and place of the hearing. Within fifteen days after such hearing the Commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the Commissioner may suspend or postpone the effective date of his previous action.

2. Nothing contained in the fire rating law shall require the observance at any hearing of formal rules of pleading or evidence.

3. If application therefor be made within ten days after the making of any order or decision of the Commissioner, the same may be reviewed in the circuit court of the first circuit and an appeal from the decision of the court shall lie to the supreme court. The review shall be had upon the record and the evidence presented before the Commissioner and no additional evidence shall be presented before the court. If either party on appeal shall offer to present material evidence different from or in addition to the evidence presented to the Commissioner, the court shall continue the case and immediately return the record to the Commissioner for further hearing or hearings at which either party may present additional evidence, and thereupon the Commissioner shall make such further order as the case may require and make return of the evidence and order to the court. The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the Commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the Commissioner in whole or in part."

SECTION 2. The following laws of the Territory of Hawaii are hereby repealed:

- (1) Revised Laws of Hawaii 1945:
  - a. Sections 8451 through 8524;
  - b. Sections 8541 through 8550;
  - c. Sections 12381 through 12383.
- (2) Session Laws, 1945:

- a. Act 240, Series C-149.
- (3) Session Laws, 1947:
  - a. Act 89, Series C-141;
  - b. Act 90, Series C-142;
  - c. Act 221, Series C-143;
  - d. Act 182, Series C-144;
  - e. Act 60, Series C-145;
  - f. Act 61, Series C-146.
- (4) Session Laws, 1949:
  - a. Act 209, Series C-234;
  - b. Act 369, Series C-235;
  - c. Act 388, Series C-237.
- (5) Session Laws, 1951:
  - a. Act 176, Series C-203;
  - b. Act 297, Series C-204;
  - c. Act 246, Series C-205;
  - d. Act 241, Series C-206;
  - e. Act 298, Series C-207.

SECTION 3. Act 226, Series C-195, Session Laws, 1953, is hereby specifically re-enacted unless any act of this regular session of the Twenty-Eighth Legislature providing for the taxation of authorized insurers shall become law.

SECTION 4. This Act shall become effective on the first day of January, nineteen hundred and fifty-six.

(Approved August 22, 1955.) **H.B. 389, Act 277.**

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### J. R. 1

Joint Resolution Providing Emergency Funds in Connection with Volcanic Disaster on Hawaii.

WHEREAS, people of Puna, Hawaii, have lost their homes, their lands and possessions through tremendous outpouring of molten lava; and

WHEREAS, the Red Cross, Civil Defense, National Guard and County and Territorial Agencies have rapidly mobilized to render assistance and are cooperating fully, but

WHEREAS, the present disaster is continuing and quakes and further other outbreaks of lava at other locations may further endanger life and engulf other areas; and

WHEREAS, the extent of this disaster cannot be foretold and the uncertainties of the situation prevent a full evaluation of the steps which now should be taken by this Legislature; and

WHEREAS, it is necessary that emergency funds be provided to facilitate the protection of lives and the health and safety of our people; and

WHEREAS, such funds also are necessary to permit advances, loans and outright grants to permit construction of emergency escape routes, evacuation facilities and to provide shelter, food, clothing and health measures as well as other facilities and to permit other action and steps

which can only be determined as the scope and extent of the disaster is determined; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general revenues of the Territory not otherwise appropriated, the sum of \$50,000 to be expended under the direction and control of the Chairman and the Board of Supervisors of the County of Hawaii, to assist in the protection of the people and properties of the County of Hawaii which have been endangered and affected by the recent volcanic eruptions in the Puna area; the sums herein appropriated shall be expended upon warrants drawn by the Territorial Auditor, based upon vouchers approved by the Chairman of the Board of Supervisors of the County of Hawaii; and due to the uncertainty of the volcano disaster in Puna and its future developments, the Legislature hereby declares that the said Chairman and the Board of Supervisors of the County of Hawaii shall possess the broadest discretion in the allocation, expenditures and use of the funds herein appropriated; provided, however, that in said allocation, expenditure and use of the funds herein appropriated, the Chairman and the Board of Supervisors of the County of Hawaii shall not duplicate the assistance or services presently being given and rendered by the Red Cross, Civil Defense, National Guard, and other civic and governmental agencies.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved March 25, 1955.) S.J.R. 60, J.R. 1.

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## J. R. 2

Joint Resolution Requesting the Congress of the United States to Enact Legislation Providing for the Transfer of 11.223 Acres of Land Located at Waimano, Ewa, Oahu, T. H., from the Government of the United States of America to the Territory of Hawaii.

WHEREAS, the Territory of Hawaii has had a revocable permit from the Government of the United States since September 23, 1946 for the use of 11.223 acres of land, more or less, located at Waimano, Ewa, Oahu, T. H., known as the Waimano Civilian Housing, title to which property is vested in the United States of America; and

WHEREAS, a civilian sub-committee of the Land Use Committee operating under provisions of presidential directive dated October 1, 1946 to the Secretaries of the Army, Navy, and Interior Departments for the purpose of examining all land acquired by the Departments of War and Navy for military purposes in Hawaii with the object of promptly releasing to the civilian economy that which was not necessary for the national security, recommended in its report to the Interior Department return to the civilian economy of the above area under revocable permit (Folder XIX, Tax Map Key 9-17-19-35, area 11.209 acres, acquired by Civil 724 et al.); and

WHEREAS, the Territory of Hawaii has used the land and buildings

covered by the revocable permit to provide domiciliary care for tuberculosis patients from 1946 to 1949; and

WHEREAS, the Territory of Hawaii has, since October 12, 1949, utilized the land and buildings covered by the revocable permit as a hospital for the care and treatment of Hansen's disease; and

WHEREAS, the Government of the United States has, by Public Law 411, undertaken full responsibility for the costs of care and treatment of Hansen's disease in the Territory of Hawaii; and

WHEREAS, the Hansen's disease program in the Territory of Hawaii is outstanding in its modern medical and sociological approach to the problems involved and has made definite progress towards the eventual eradication of this disease from Hawaii, and has been commended by various authorities, including officials of the U. S. Public Health Service, the Leonard Wood Memorial Foundation, and health authorities of both private and public health agencies in foreign countries, as being sound and effective; and

WHEREAS, the Territory of Hawaii has improved and renovated the grounds and buildings covered by the revocable permit referred to above for its special use in the care and treatment of patients with Hansen's disease; and

WHEREAS, the stability and effectiveness of the Hansen's disease control program in the Territory of Hawaii would be enhanced by the transfer of the title of the land and buildings from the Government of the United States of America to the Territory of Hawaii, and the 27th Legislature of the Territory in 1953 requested such transfer by the enactment of appropriate legislation by the Congress of the United States, but the Congress has not yet taken the requested action; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation which will transfer title to 11.223 acres of land, more or less, located at Waimano, Ewa, Oahu, T. H., known as the Waimano Civilian Housing, to the Territory of Hawaii, title to which property is now vested in the United States of America.

SECTION 2. Upon its approval, authenticated copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, to the Secretary of Defense, to the Surgeon General of the Public Health Service, to the Delegate to Congress from Hawaii, to the Commissioner of Public Lands and to the President of the Board of Health.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 5, 1955.) S.J.R. 45, J.R. 2.



## J. R. 3

Joint Resolution Requesting the Congress of the United States of America to Amend the Hawaiian Organic Act to Provide for Annual Regular Sessions of the Legislature.

WHEREAS, section 41 of the Hawaiian Organic Act provides for biennial sessions of the legislature of the Territory of Hawaii, such section having been in effect since April 30, 1900; and

WHEREAS, subsequent to the enactment of the Hawaiian Organic Act the population of the Territory has more than tripled and it is now necessary for the legislature to meet annually for the proper and adequate consideration of governmental problems and determination of policy for the Territory; and

WHEREAS, "The Constitution of the State of Hawaii" as agreed upon by the delegates of the people of Hawaii in convention on July 22, 1950, made provision for annual regular sessions of the legislature; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to amend the Act entitled, "An Act to provide a government for the Territory of Hawaii," approved April 30, 1900, as amended, known as the Hawaiian Organic Act, as follows:

(a) By amending section 26 to read:

"Sec. 26. **Compensation of members.** That the members of the legislature shall receive for their services, in addition to mileage at the rate of 20 cents a mile each way, the sum of \$2,500.00 for each general session, and \$1,500.00 for each budget session, payable in three equal installments on or after the first, thirtieth, and fiftieth days of each general session and on or after the first, fifteenth and twenty-fifth day of each budget session, such amounts to be appropriated by Congress from any moneys in the Federal Treasury not otherwise appropriated, based upon regular estimates submitted through the Secretary of the Interior: **Provided**, that the members shall receive from the Territory \$750.00 as compensation for any special session held under the provisions of existing law: **Provided**, further, that the sums herein authorized to be appropriated from the Federal Treasury for mileage and per diem of members for general or budget sessions shall constitute the only sums to be appropriated by the Congress for legislative expenses."

(b) By amending sections 41, 42 and 43 to read:

"Sec. 41. **Sessions of the legislature.** That regular sessions of the legislature shall be held annually. The governor may convene the legislature, or the senate alone, in special session. All sessions shall be held at the capital of the Territory. In case the capital shall be unsafe, the governor may direct that any session shall be held at some other place. Regular sessions in odd numbered years shall be known as "general sessions" and regular sessions in even numbered years shall be known as "budget sessions".

At budget sessions the legislature shall be limited to the consideration and enactment of the general appropriations bill for the suc-

ceeding fiscal year and bills to authorize proposed capital expenditures, revenue bills necessary therefor, urgency measures deemed necessary in the public interest, bills calling elections, and bills to provide for the expenses of such session. The legislature may also consider and act upon matters relating to the removal of officers. No urgency measure shall be considered unless a statement of facts constituting such urgency is set forth in one section thereof and until such section has been first approved by each house. The approval of such section and the final passage of such measure in each house shall require a two-thirds vote of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal.

**Sec. 42. Commencement and duration of sessions.** That regular sessions shall commence at 10:00 o'clock a.m. on the third Wednesday in February. General sessions shall be limited to a period of sixty days and budget sessions and special sessions to a period of thirty day, but the governor may extend any session for not more than thirty days. Sundays and holidays shall be excluded in computing the number of days of any session.

**Sec. 43. Adjournment.** That neither house shall adjourn during any session of the legislature for more than three days, or sine die, without the consent of the other."

(c) By amending section 53 to read:

"**Sec. 53. The budget.** That within such time prior to the opening of each regular session as may be prescribed by law, the governor shall submit to the legislature a budget setting forth a complete plan of proposed general fund expenditures and anticipated receipts of the Territory for the ensuing fiscal period, together with such other information as the legislature may require. The budget shall be compiled in two parts, one setting forth all proposed operating expenditures for the ensuing fiscal period and the other, all capital improvements expenditures proposed to be undertaken during such period. The governor shall also, upon the opening of the session, submit bills to provide for such proposed expenditures and for any recommended additional revenues or borrowings by which the proposed expenditures are to be met. Such bills shall be introduced in the legislature upon the opening of each regular session."

**SECTION 2.** Certified copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

**SECTION 3.** This Joint Resolution shall take effect upon its approval.

(Approved April 11, 1955.) **S.J.R. 1, J.R. 3.**

## J. R. 4

Joint Resolution Requesting the Congress of the United States to Transfer to the Territory of Hawaii the Title to the Remaining Public Lands and other Public Property in Hawaii, and to Enact New Provisions as to the Authority of the Legislature of the Territory of Hawaii in Respect of Such Property and Other Lands under the Jurisdiction and Control of the Territory of Hawaii.

WHEREAS, by the Treaty of Annexation of 1897 ratified by the Senate of the Republic of Hawaii on September 9, 1897, the Republic of Hawaii did cede to, and by the Newlands Resolution of July 7, 1898 the United States did accept, the title to the public lands and other public property of the Republic of Hawaii upon terms and provisions retaining for the people of Hawaii the beneficial ownership thereof but providing for the free use and occupancy of such property by the United States for its civil, military or naval purposes; and

WHEREAS, in the case of Puerto Rico the United States with some exceptions returned to the people the title to the public domain shortly after its acquisition thereof and did not retain a right of free use, as shown by the Acts of April 12, 1900 (31 Stat. 77) and July 1, 1902 (32 Stat. 77); and

WHEREAS, Texas, the only other area which has come under the American flag by the voluntary action of its people, did not cede to the United States its public lands or any right of free use of lands, except the existing public works (5 Stat. 797); and

WHEREAS, in the case of Hawaii for a period of more than fifty years the United States has been making free withdrawals from the Hawaiian public domain for Federal uses and purposes, and has, by the Hawaiian Organic Act, prohibited the legislature of the Territory of Hawaii from altering, amending or repealing the Hawaiian land laws without the consent of the Congress; and

WHEREAS, at this time the legal title to the remaining public lands and other public property should be returned to the beneficial owners, the people of Hawaii, and that the legislature should be authorized to enact laws governing the same without the necessity of obtaining the consent of the Congress; and

WHEREAS, other lands acquired by the Territory of Hawaii, are subject to the provisions of section 73 of the Hawaiian Organic Act; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby requested to enact a bill substantially as follows:

"A Bill Transferring to the Territory of Hawaii the Title to the Remaining Public Lands and Other Public Property in Hawaii, and Enacting New Provisions as to the Authority of the Legislature of the Territory of Hawaii in Respect of Such Property and Other Lands Under the Jurisdiction and Control of the Territory of Hawaii.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

Section 1. That the United States hereby grants to the Territory of Hawaii the absolute title to all the public lands and other public property in Hawaii, title to which is in the United States, upon the taking effect of this Act, except as otherwise provided in this Act: **Provided**, however, that as to any such lands or other property heretofore set aside by Act of Congress or by Executive Order or Proclamation of the President or the Governor of Hawaii, pursuant to law, for the use of the United States, whether absolutely or subject to limitations, and remaining so set aside upon the taking effect of this Act, the United States shall retain title thereto, or an interest therein conformable to such limitations, as the case may be, subject, however, to the power of the President to restore such lands or other property to the Territory of Hawaii in the manner heretofore provided by section 91 of the Hawaiian Organic Act, as amended, (48 U.S.C. 511) in which event title to such property shall vest in the Territory of Hawaii: **Provided** further, that when any such public property so taken for the uses and purposes of the United States, instead of being used for public purposes is by the United States leased, rented, or granted upon revokable permits to private parties, the rentals or consideration shall be covered into the treasury of the Territory of Hawaii.

As used in this section, the term 'public lands and other public property' means, and is limited to, the lands and other properties that were ceded to the United States by the Republic of Hawaii under the Joint Resolution of Annexation approved July 7, 1898 (30 Stat. 750) or that have been acquired in exchange for lands or other properties so ceded.

Section 2. The Hawaiian Homes Commission Act, 1920, as amended, shall be subject to amendment or repeal only with the consent of the Congress, and in no other manner.

Section 3. The legislature of the Territory is hereby authorized to transfer, or provide for the transfer of the lands, title to which is in the Territory of Hawaii pursuant to existing law or vested in the Territory of Hawaii by section 1 of this Act, to any city, county or other political subdivision thereof, or to any public corporate body constituted by law.

Section 4. The legislative power of the Territory over the lands owned by or under the control of the Territory and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the Territory, a political subdivision, or any department or agency thereof.

Section 5. The Submerged Lands Act of 1953 (Public Law 31, Eighty-Third Congress, first session; 67 Stat. 29), shall be applicable to the Territory of Hawaii, and the said Territory shall have the same rights as do the states thereunder.

Section 6. All laws of the United States reserving to the United States the free use or enjoyment of property vested in the Territory

of Hawaii, or reserving (except as provided in section 2) the right to alter, amend, or repeal laws relating thereto, are hereby repealed.

Section 7. Section 73 of the Hawaiian Organic Act as heretofore amended (48 U.S.C. 663-677b) shall, until and unless otherwise provided by the legislature of the Territory of Hawaii, remain in effect as a law of said Territory, subject to amendment or repeal by the legislature of the Territory of Hawaii without any requirement that the consent of the Congress be obtained in order to make effective such amendment or repeal.

Section 8. Except as otherwise provided by this Act, section 91 of the Hawaiian Organic Act is hereby repealed.

Section 9. This Act shall take effect on its approval."

SECTION 2. Certified copies of this Joint Resolution shall, upon its approval, be forwarded to the Secretary of the Interior, the Delegate to Congress from Hawaii, the President of the Senate of the United States, and the Speaker of the House of Representatives of the United States.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 18, 1955.) S.J.R. 26, J.R. 4

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### J. R. 5

Joint Resolution Relating to Harbor Improvements, Island of Hawaii.

WHEREAS, a harbor at Kawaihae, Hawaii, is a vital need of the Territory of Hawaii; and

WHEREAS, the Congress of the United States of America has approved the project proposed by the Corps of Engineers, U. S. Army, in House Document No. 311, 81st Congress, 1st Session; and

WHEREAS, the 10 year commerce forecast for Kawaihae, made 5 years ago, would already be exceeded; and

WHEREAS, the existing pier facility near Kawaihae, which is capable of handling cargo only to inter-island barges, is in very bad structural condition, causing hazardous conditions; and

WHEREAS, large tonnages of raw sugar are now lightered to deep-sea vessels at the nearby anchorage of Mahukona at great cost; and

WHEREAS, the total benefit to commerce would be more than \$500,000 annually; and

WHEREAS, responsible private interests will jointly cooperate to finance, install and operate bulk sugar storage and handling facilities; and

WHEREAS, the Territory of Hawaii, by its Legislature, has authorized the issuance of \$1,000,000 in Board of Harbor Commissioners Revenue Bonds for construction of the initial port facilities; and

WHEREAS, the people of the Territory of Hawaii are greatly dependent upon ocean commerce, to a far greater extent than any State of the Union; and

WHEREAS, the Territory of Hawaii has received no major federal harbor improvement in nearly 20 years; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested and urged to include in the current River and Harbor Development Appropriation Bill an item for providing a harbor at Kawaihae, Hawaii.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Delegate to Congress from Hawaii, and to the Chief of Engineers, U. S. Army.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 19, 1955.) H.J.R. 38, J.R. 5.

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### J. R. 6

Joint Resolution Requesting the Congress of the United States of America to appropriate moneys for market reporting and crop estimating work in Hawaii.

WHEREAS, the Congress of the United States of America has appropriated funds to the Agricultural Marketing Service of the United States Department of Agriculture for the maintenance of crop estimating and market reporting service in most mainland agricultural areas; and

WHEREAS, the Territory of Hawaii now maintains crop estimating and market reporting services solely through the Agricultural Extension Service of the University of Hawaii; and

WHEREAS, crop estimates and market reports are an indispensable aid to farmers, dealers, military and governmental consumers, and the general public; and

WHEREAS, the production information covers commodities having an annual wholesale value of approximately \$40,000,000 and the market information covers approximately \$50,000,000; and

WHEREAS, the Territory of Hawaii is an integral part of the United States of America, paying its full share of federal taxes and is being denied equal treatment with the states; and

WHEREAS, the Territory of Hawaii because of its geographical position is in greater need than most of the states of having complete and accurate information on prospective crop harvests and market conditions; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested and urged to include in the current budget of the Agricultural Marketing Service of the United States Department of Agriculture an appropriation of \$16,000 to the market reporting division and \$25,000 to the agricultural estimating division thereof to be expended in Hawaii for crop estimates and market reports in cooperation with the Agricultural Extension Service of the University of Hawaii.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Delegate to Congress from Hawaii, and to the Secretary of Agriculture.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 22, 1955.) H.J.R. 133, J.R. 6.

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### J. R. 7

Joint Resolution Permitting the Employment in the Civil Service of Certain Persons Employed in the Operation of the Waimanalo Irrigation System.

WHEREAS, in carrying out one of the purposes for which it was created the Hawaii Irrigation Authority took over the operation of the irrigation system at Waimanalo, Oahu, T. H., on or about November 23, 1953; and

WHEREAS, since said date said irrigation system has been operated by certain persons under contract with the Hawaii Irrigation Authority and under individual employment contracts; and

WHEREAS, most of said persons were formerly employed by the Waimanalo Sugar Company and the Waimanalo Agricultural Development Co., Ltd., for the operation of said irrigation system and have for a long period been continuously so employed; and

WHEREAS, the Hawaii Irrigation Authority desires to employ said persons on a permanent basis under the provisions of Chapters 2 and 3, Revised Laws of Hawaii 1945; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That any of said persons now employed by the Hawaii Irrigation Authority under a temporary individual employment contract in the operation of the Waimanalo, Oahu, irrigation system may by action of the Civil Service Commission of the Territory be given an initial probationary appointment without examination, and may be placed in an appropriate class by the personnel classification board.

SECTION 2. That any of said persons who is now receiving a salary under such temporary individual employment contract above the minimum rate of the grade to which his position is assigned may be paid at a rate higher than the minimum but not exceeding the maximum of that grade.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 23, 1955.) S.J.R. 89, J.R. 7.

## J. R. 8

Joint Resolution Memorializing the Congress of the United States to Increase the Salaries of the Judges of the Supreme and Circuit Courts of Hawaii.

WHEREAS, the judges of the Supreme and Circuit Courts of Hawaii are appointed by the President of the United States, by and with the advice and consent of the Senate of the United States; and

WHEREAS, payment of the compensation of the judges is the responsibility of the government by whom they are appointed; and

WHEREAS, since 1945 the Federal compensation of these judges has been considered inadequate to maintain a reasonable standard of living and to protect the integrity of the judiciary branch of government in the Territory of Hawaii; and

WHEREAS, since 1945 the Territory of Hawaii has felt obligated to supplement the salaries of the judges of these courts by providing them additional compensation until the Federal government increases their salaries; and

WHEREAS, repeated requests to the Congress of the United States to increase the compensation of these judges has brought no result; and

WHEREAS, the Congress of the United States has recently passed legislation to increase the compensation of judges of the Federal courts, now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to increase the compensation of supreme and circuit court judges of the Territory of Hawaii.

SECTION 2. Duly certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of the Interior and to the Delegate to the Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 28, 1955.) H.J.R. 24, J.R. 8.

## J. R. 9

Joint Resolution Requesting the Congress of the United States to Enact Legislation Providing the Funds to Pay for a Second Bore to Kalihi Tunnel, Island of Oahu, Territory of Hawaii.

WHEREAS, the Kalihi Tunnel on the island of Oahu, Territory of Hawaii, as authorized and now under construction consists of a single bore; and

WHEREAS, the tunnel is of great value to the Department of Defense of the United States in that it provides a short, low-grade highway between installations on the leeward side of the Koolau Range (such as Pearl Harbor Navy Yard, Barbers Point Naval Air Station, Fort Shafter, and Schofield



Barracks), and installations on the windward side of the Koolau Range (such as Kaneohe Naval Air Station); and

WHEREAS, a second bore would increase considerably the value of the tunnel for Department of Defense purposes; and

WHEREAS, a second bore would also aid the Territory of Hawaii in many ways, among them that it would provide employment in an area which, although it may soon be classified as Group IV (substantial labor surplus) by the United States Department of Labor, is not able to receive the assistance (such as placement of defense contracts, and receipt of accelerated tax amortization by defense plants) which the United States now proposes to give to such an area; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation providing the funds to be used by the Territory of Hawaii to survey, plan and construct a second bore in connection with the Kalihi Tunnel.

SECTION 2. A certified copy of this Joint Resolution be sent to each of the following officers of the United States: The President, the President of the Senate, the Speaker of the House of Representatives, the Secretary of the Interior, and the Delegate to the Congress from Hawaii.

SECTION 3. This Joint Resolution takes effect upon its approval.

(Approved April 28, 1955.) H.J.R. 107, J.R. 9.

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## J. R. 10

Joint Resolution Requesting Congress to Amend the Hawaiian Homes Commission Act, 1920, to Enable the Construction of Irrigation Projects to Serve Hawaiian Homes Lands.

WHEREAS, the Hawaii Irrigation Authority, created by Act 245, of the Twenty-Seventh Legislature of the Territory of Hawaii, proposes to construct irrigation projects designed to serve, in whole or in part, Hawaiian Homes lands; and

WHEREAS, the construction of such projects would greatly benefit the homesteaders who occupy or will occupy such lands, and also the economy of the Territory of Hawaii; and

WHEREAS, to enable the construction of such projects the Hawaiian Homes Commission must be authorized to grant licenses to the Hawaii Irrigation Authority for pipelines and the like across Hawaiian Homes lands and to develop water appurtenant to Hawaiian Homes lands, to provide reservoir and well sites upon Hawaiian Homes lands, and to undertake the payment of assessments against community pastures served by such projects and in certain circumstances the payment of construction costs of projects requested by the Hawaiian Homes Commission; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is here-

by requested to enact legislation granting authority to the Hawaiian Homes Commission to do the above things, and to that end the Congress of the United States of America is hereby requested and urged to adopt a bill substantially in the following form, to-wit:

"A Bill to Amend Section 220, Hawaiian Homes Commission Act, 1920.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

Sec. 1. That section 220, Hawaiian Homes Commission Act, 1920, as amended, be further amended by adding a new paragraph thereto to read as follows:

'To enable the construction of irrigation projects which will serve Hawaiian home lands, either exclusively or in conjunction with other lands served by such projects, the commission is authorized, with the approval of the governor, to grant to the Hawaii Irrigation Authority, or to any other agency of the government of the Territory or the United States undertaking the construction and operation of such irrigation projects, for such term of years as is required for amortization of the costs of such projects, licenses for rights of way for pipelines, tunnels, ditches, flumes, and other water conveying facilities, reservoirs and other storage facilities, and for the development and use of water appurtenant to Hawaiian home lands; to exchange available lands for public lands, as provided in section 204 (4) of this Act, for sites for reservoirs and subsurface water development wells and shafts; to request any such irrigation agency to organize irrigation projects for Hawaiian home lands and to transfer irrigation facilities constructed by the commission to any such irrigation agency; to agree to pay the tolls and assessments made against community pastures for irrigation water supplied to such pastures; and to agree to pay the costs of construction of projects constructed for Hawaiian home lands at the request of the commission, in the event the assessments paid by the homesteaders upon lands are not sufficient to pay such costs. Such payments shall be made from and be a charge against the Hawaiian home-operating fund.'

Sec. 2. This Act shall take effect upon its approval."

SECTION 2. That certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 5, 1955.) H.J.R. 96, J.R. 10.

## J. R. 11

Joint Resolution Directing the Hawaii Irrigation Authority to Investigate the Possibilities of Water Storage in the Kawaikoi-Waiakoali Area on the Island of Kauai, Territory of Hawaii, and to Seek Technical Assistance and Financial Aid from the Government Therefor.

WHEREAS, the government owned Kawaikoi-Waiakoali area in the Waimea river basin on the island of Kauai, Territory of Hawaii, appears suitable for the construction of a dam or dams to contain the island of Kauai's heavy rainfall; and

WHEREAS, of more than 10,000 acres of public land in west Kauai more than 7,500 acres are uncultivated because of inadequate water supply; and

WHEREAS, flooding of the Waimea river has been a continuing hazard and control measures are required to insure the safety of homes and other valuable property; and

WHEREAS, the valuable soil of the island is being lost more rapidly through erosion than it can be replaced by nature; and

WHEREAS, although the consumption of electric power on Kauai is steadily increasing, much of this power is generated by oil imported at considerable expense or by sugar cane bagasse which has potential value as raw material for a paper industry in Hawaii; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Hawaii irrigation authority is hereby urged and directed to make studies and investigations of the Kawaikoi-Waiakoali area on the island of Kauai for the purpose of ascertaining its water storage potential for purposes of irrigation, flood control, soil conservation and the generation of hydroelectric power.

SECTION 2. That the Hawaii irrigation authority is hereby further urged and directed to seek all possible aid and assistance, both technical and financial, from the federal government, to the end that the determination of the feasibility of constructing, and the actual construction of, a dam and such other works in the Kawaikoi-Waiakoali area as may be required for a water storage, irrigation, flood control or hydroelectric project, or any or all of them, may be expedited.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 5, 1955.) H.J.R. 34, J.R. 11.

## J. R. 12

Joint Resolution Requesting the Congress of the United States of America to Amend the Hawaiian Organic Act by Amending Section 77 thereof, and by Adding thereto a New Section 77A, Relating to a Post-Auditor.

WHEREAS, the Hawaiian Organic Act creates an audit department within the executive branch of the territorial government, with the powers and duties of performing both pre-audit and post-audit functions; and

WHEREAS, modern principles of public administration dictate that

the important function of post-auditing should not be performed by a member of the executive branch, but rather that such function should be performed by an official serving outside the executive branch and as an independent check thereon; and

WHEREAS, this principle was recognized by the drafters of the proposed constitution for the State of Hawaii and provision was therein made for the appointment of the post-auditor by the legislature; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to amend the Hawaiian Organic Act by amending section 77 thereof and adding a new section 77A thereto, to read substantially as follows:

**"Sec. 77. Comptroller and deputy comptroller.** That there shall be a comptroller and deputy comptroller, who shall have the powers and duties conferred upon and required of the auditor-general and deputy auditor-general, respectively, by Act 39 of the Session Laws, as amended by this Act, subject to modification by the legislature. In said Act 'officer' shall be substituted for 'minister' where used without other designation.

**Sec. 77A. Post-auditor.** That there shall be a post-auditor who shall be appointed by a majority vote of each house of the legislature in joint session, who shall serve for a period of eight years and thereafter until a successor shall have been duly appointed. He shall have such powers and duties relating to the post-audit of territorial and county accounts and appropriations as may be prescribed by law. The legislature, by a two-thirds vote of the members in joint session, may remove the post-auditor at any time for cause."

SECTION 2. In enacting the legislation requested by section 1 of this Joint Resolution, the Congress is further respectfully requested to make it effective upon the enactment by the legislature of the Territory of Hawaii of legislation prescribing the duties of post-auditor and re-defining the duties of the comptroller.

SECTION 3. Duly certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 5, 1955.) **H.J.R. 56, J.R. 12.**

## J. R. 13

Joint Resolution Requesting the Congress of the United States to Enact Legislation to Permit Entry into the United States of Wives and Minor Children of Citizens of the Republic of the Philippines Who Entered the United States Prior to 1946 and Have Established Permanent Residence Therein.

WHEREAS, there are thousands of Filipino citizens who entered the United States as laborers prior to 1946 and are now permanent residents therein whose wives and minor children are now living in the Philippine islands; and

WHEREAS, such Filipino citizens have contributed much to the economic development of, and are distinct assets to, the Territory of Hawaii, as well as the United States of America; and

WHEREAS, it would be to the public benefit and weal to have the families of such Filipino citizens reunited so that they may fully participate in the growth and development of the respective communities in which they may establish themselves; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation to permit entry into the United States of the wives and minor children, as non-quota immigrants, of citizens of the Republic of the Philippines who legally entered the United States prior to July 2, 1946 and have established permanent residence therein.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, the Attorney General of the United States, the Secretary of State and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 5, 1955.) H.J.R. 140, J.R. 13.

## J. R. 14

Joint Resolution Requesting the Congress of the United States to Amend Its Air Parcel Post Rates.

WHEREAS, numerous Hawaiian export businesses depend exclusively upon air transportation to the mainland for their perishable products; and

WHEREAS, air parcel post rates are unduly burdensome to these businesses because the present air parcel post charges on a package weighing nine ounces is the same as the charge for one that weighs a full pound; likewise a package weighing one pound one ounce has the same charge as one that weighs two pounds; similarly a package weighing two pounds one ounce is charged the same as one weighing three pounds, etc.; and

WHEREAS, such shipments which exceed the even pound or pounds by only a small fraction now pay highly excessive rates; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to amend the existing laws fixing the rates for air parcel post so that the charges for airmail parcel post will be at a flat rate of five cents per ounce for all parcels.

SECTION 2. Duly certified copies of this Joint Resolution shall, upon its approval, be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Postmaster General, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 6, 1955.) H.J.R. 177, J.R. 14.

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### J. R. 15

Joint Resolution Requesting the Delegate to Congress from Hawaii to Seek Federal Aid in Investigating the Commercial Uses for Methods of Destruction of Lava Beds.

WHEREAS, large areas of the Territory of Hawaii, particularly on the island of Hawaii, have been and are from time to time covered by lava flows resulting from the eruption of volcanoes in the Territory; and

WHEREAS, serious economic loss has resulted from the destruction caused by such eruptions of lava and considerable areas have been rendered unusable for long periods of time as a result thereof; and

WHEREAS, any means of destroying flows or fields of solidified lava or making commercial use thereof or to scientifically disintegrate or facilitate the deterioration of lava beds so as to make them cultivable would be of great economic benefit to the Territory; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Delegate to Congress from the Territory of Hawaii is hereby requested to determine what agencies of the federal government are equipped for research and investigation of the uses of lava or destruction of lava fields and request that such research be afforded the Territory of Hawaii.

SECTION 2. The Delegate to Congress is further requested, in the event that such agencies are unable to proceed with such research, investigation and assistance in the absence of an appropriation or appropriations, to request that the Congress of the United States make the necessary appropriation or appropriations therefor.

SECTION 3. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 9, 1955.) H.J.R. 110, J.R. 15.

## J. R. 16

Joint Resolution Requesting the Congress of the United States to Amend the Agricultural Adjustment Act of 1938, as Amended, to Include Coffee under the Parity Payment Program.

WHEREAS, the Congress of the United States has passed numerous legislative measures assisting farmers in the production of specific agricultural commodities; and

WHEREAS, in order to encourage coffee growing in the Territory federal support through programs authorized by the Agricultural Adjustment Act of 1938, as amended, is necessary; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation to include coffee among the basic agricultural commodities assisted and supported by programs under the Agricultural Adjustment Act of 1938, as amended, and to authorize parity payments to coffee growers in the Territory of Hawaii.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, to the Secretary of Agriculture and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 10, 1955.) H.J.R. 74, J.R. 16.

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J. R. 17

Joint Resolution Requesting Congress to Amend Section 221 (d) of the Hawaiian Homes Commission Act, 1920.

WHEREAS, the Hawaii Irrigation Authority, created by Act 245 of the Twenty-Seventh Legislature of the Territory of Hawaii, proposes to construct an irrigation and water utilization project upon the island of Molokai, designed primarily to serve and supply the lands of the Hawaiian Homes Commission on Molokai; and

WHEREAS, a portion of the funds necessary for the construction of said project have been appropriated by chapter 317 of the Revised Laws of Hawaii 1945, and additional funds will be required for the completion of said project, some of which funds may be sought from Congress; and

WHEREAS, said chapter 317 of the Revised Laws of Hawaii 1945 contemplates that the funds appropriated therein shall be spent in accordance with the provisions of said chapter, including the requirements that the same be repaid to the Territory of Hawaii out of charges made for water supplied from such system to said Hawaiian Homes Commission lands; and

WHEREAS, section 221 (d) of the Hawaiian Homes Commission Act, 1920 (42 Stat. 114, 48 U.S.C. 715 (d) ), authorizes the commission to use,

for the purpose of adequately irrigating any tract, government owned water upon the island of Molokai free of all charge; and

WHEREAS, to enable the construction of said irrigation and water utilization system and the expenditure of the funds appropriated therefor by said chapter 317, an amendment to section 221 (d) of the Hawaiian Homes Commission Act is required to allow charges to be made for water supplied from such system to said Hawaiian Homes Commission lands; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress of the United States of America be and it hereby is, requested to enact legislation amending section 221 (d) of the Hawaiian Homes Commission Act, 1920 (42 Stat. 114, 48 U.S.C. 715 (d) ) so as to allow charges to be made for government owned water supplied to Hawaiian Homes Commission lands on the island of Molokai for irrigation purposes; and to that end the Congress of the United States of America is hereby requested and urged to adopt a bill substantially in the following form, to-wit:

"A Bill to Amend Section 221 (d), Hawaiian Homes Commission Act, 1920.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

SECTION 1. That section 221(d), Hawaiian Homes Commission Act, 1920 (42 Stat. 114, 48 U.S.C. 715 (d)) is hereby amended by deleting therefrom the words 'government-owned water upon the island of Molokai, and' appearing therein between the words 'charge' and 'government-owned', and by deleting therefrom the words 'any of the water upon the island of Molokai, and' appearing therein between the words 'charge' and 'any'.

SECTION 2. Said section 221(d), Hawaiian Homes Commission Act, 1920, is hereby further amended by adding a new paragraph thereto, to read as follows:

'Any funds which may be appropriated by Congress as a grant in aid for the construction of an irrigation and water utilization system on the island of Molokai designed to serve Hawaiian Homes Commission lands, and which are not required to be reimbursed to the federal government, shall be deemed to be payment in advance by the Hawaiian Homes Commission and lessees of the Hawaiian Homes Commission of charges to be made to them for the construction of such system and shall be credited against such charges when made.'

SECTION 3. This Act shall take effect upon its approval."

SECTION 2. That certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.



SECTION 3. This Joint Resolution shall take effect upon its approval.  
(Approved May 10, 1955.) H.J.R. 83, J.R. 17.

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J. R. 18

Joint Resolution Authorizing the City and County of Honolulu to Enter Into a Lease with the Department of the Army for Acquisition of Parking Area, Fort De Russy.

WHEREAS, development of Waikiki as a major tourist and resort area capable of accommodating large conventions will contribute to the economic well-being and general welfare of the people of the Territory of Hawaii; and

WHEREAS, public parking space in Waikiki is already inadequate, and the construction of such large convention auditoriums will increase the need for and make imperative, parking facilities for those attending functions at said convention auditoriums; and

WHEREAS, the Commanding General of the United States Army, Pacific Ocean Area, has indicated that the Army will license, without cost, to the city and county of Honolulu, an area within Fort De Russy for a period of five years, subject to renewal for an additional period, for parking purposes sufficient to accommodate approximately 1,000 automobiles, provided that the parking area be restricted to the use of persons attending functions at said convention auditoriums; and

WHEREAS, it is incumbent upon this Twenty-Eighth Territorial Legislature to facilitate by proper legislation the growth and development of Waikiki and the economic well-being and general welfare of the people of the Territory of Hawaii; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the board of supervisors of the city and county of Honolulu is hereby given the authority to execute a license agreement with the Department of the Army for the use of an area within Fort De Russy, and the power to sublicense said area, for the purpose of acquiring parking facilities at Fort De Russy sufficient to accommodate approximately 1,000 automobiles for the use of persons attending functions at said convention auditoriums, **provided** that said license and any improvement made thereunder shall be without cost to the city and county of Honolulu.

SECTION 2. This Joint Resolution shall take effect upon its approval.  
(Approved May 10, 1955) S.J.R. 61, J.R. 18.

## J. R. 19

Joint Resolution Requesting Congress to Amend Section 73 (i) of the Hawaiian Organic Act, Relating to Provisions Contained in Patents, Agreements and Leases.

WHEREAS, it appears that many of the irrigation projects to be organized by the Hawaii Irrigation Authority will include large segments of public land; and

WHEREAS, in conjunction with said irrigation projects and in furtherance of the government's program of homesteading and development of small scale farming much of said public land will be sold for homesteads and farm lots pursuant to the provisions of the Hawaiian Organic Act; and

WHEREAS, to secure the success of said irrigation projects, with the resultant benefits thereof to the homesteaders and others participating in said irrigation projects it is necessary to preclude the withdrawing of land from an irrigation project, to the detriment of others participating in the project, after the project has been formed; and

WHEREAS, the power of the commissioner of public lands to require the retention of lands in irrigation projects is not expressly stated in the Hawaiian Organic Act; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby requested to enact legislation expressly granting authority to the commissioner of public lands to provide for the inclusion and retention in irrigation projects of public lands sold for homesteads and farm lots, and to that end the Congress of the United States is hereby requested and urged to adopt a bill substantially in the following form, to wit:

"A Bill to Amend Section 73 (i) of the Hawaiian Organic Act.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

Section 1. That section 73 (i) of the Hawaiian Organic Act is hereby amended by adding the following paragraph thereto:

'The Commissioner may include in any patent, agreement, or lease a condition requiring the inclusion of the land in any irrigation project formed or to be formed by the territorial agency responsible therefor and making the land subject to assessments made or to be made for such irrigation project, which assessments shall be a first charge against the land. For failure to pay the assessments or other breach of the condition the land may be forfeited and sold pursuant to the provisions of this Act, and, when sold, so much of the proceeds of sale as are necessary therefor may be used to pay any unpaid assessments.'

Section 2. This Act shall take effect on and after the date of its approval."

SECTION 2. In the event the public lands in the Territory are returned to the sole jurisdiction and control of the Territory of Hawaii, the amendment of section 73, paragraph (i) of the Hawaiian Organic Act requested of the Congress in section 1 hereof shall become effective forthwith.

SECTION 3. That certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 10, 1955.) H.J.R. 153, J.R. 19.

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### J. R. 20

Joint Resolution Requesting the Congress of the United States of America to Enact Into Law H. R. 588 Entitled "A Bill To Establish An Educational Assistance Program For Children Of Servicemen Who Died As A Result Of A Disability Incurred In Line Of Duty During World War II Or The Korean Service Period In Combat Or From An Instrumentality Of War," Introduced by Mr. Olin E. Teague of Texas During the 1st Session of the 84th Congress on January 5, 1955.

WHEREAS, the Territory of Hawaii, in its devotion and loyalty to the United States of America, has given unselfishly of its men to the service of the armed forces of the United States of America during World War II and the Korean emergency; and,

WHEREAS, the fortunes of war have seen fit to take the lives of many of these men who left their children behind them; and,

WHEREAS, it is not only fitting, but proper, that we, whom they so loyally served and for whom they made the greatest of all sacrifices, effectuate some expression of our gratitude; and,

WHEREAS, it is felt that such gratitude could be best expressed, among others, by providing opportunities for education and training to children whose education and training would otherwise be impeded or interrupted by reason of the death of their fathers as a direct result of their services in the armed forces of the United States, and for aiding such children in attaining the educational and training status which they might normally have aspired to and obtained but for the death of their fathers; and,

WHEREAS, such a program would be of benefit to the children of these men of the Territory of Hawaii as well as of the nation; and,

WHEREAS, H. R. 588, should it be enacted into law, best expresses the intent and purposes herein expressed; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby requested to enact into law H. R. 588 entitled "A Bill to establish an educational assistance program for children of servicemen who died as a result of a disability incurred in the line of duty during World War II or the Korean

service period in combat or from an instrumentality of war" introduced by Mr. Olin E. Teague of Texas during the first session of the 84th Congress on January 5, 1955.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Chairman of the Committee on Veterans' Affairs, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 10, 1955.) H.J.R. 25, J.R. 20.

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### J. R. 21

Joint Resolution Requesting the Congress to Enact Legislation Enabling Hawaii to be Admitted to Statehood.

WHEREAS, Hawaii was annexed to the United States by agreement between the government of the people of Hawaii, which was then an independent Republic, and the government of the United States; and

WHEREAS, under said agreement Hawaii was to become, and did become, an integral part of the United States; and

WHEREAS, in fulfillment of the terms of the Newlands Resolution of annexation the Congress enacted the Hawaiian Organic Act, which constituted Hawaii an incorporated organized territory; and

WHEREAS, every incorporated organized territory in the history of the United States, except Alaska and Hawaii, has invariably been granted statehood upon the successful completion of a reasonable period of pupilage; and

WHEREAS, inherent in the public acts under which Hawaii became an integral part of the United States and was created an incorporated organized territory, was the implied promise of ultimate statehood on an equal footing with the original states, upon the fulfillment of the traditional requirements for admission as a state established and followed in the admission of every previously incorporated organized territory; and

WHEREAS, this implied promise has been repeatedly acknowledged by the executive and judicial branches of the government of the United States, and by the Congress of the United States, especially in the reports of Committees of the Congress duly adopted by the Congress relating to Statehood for Hawaii; and

WHEREAS, the people of Hawaii have demonstrated their political maturity, their ability to govern themselves in accordance with the principles of representative government laid down by the United States Constitution, and their ability to maintain themselves as a sound economic unit; and have fully and unequivocally met every historic qualification for statehood; and

WHEREAS, in each Congress since 1946 Hawaii has moved ever closer to the attainment of its goal, to such effect that in the 83rd Congress both the House of Representatives and the Senate enacted legislation for the admission of the State of Hawaii; and

WHEREAS, Title I of H. R. 2535 of the 84th Congress, as recommended to be amended by Report Number 88 of the Committee on Interior and Insular Affairs of the House of Representatives, constitutes a considered disposition of every matter involved in the admission of the new state; is the result of many years of study, hearings, and reconciliation of all points of view; and provides the proper framework for the admission of Hawaii to statehood; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation enabling Hawaii to be admitted to statehood, substantially in the form of Title I of H. R. 2535, as recommended to be amended by Report No. 88 of the Committee on Interior and Insular Affairs of the House of Representatives of the 84th Congress.

SECTION 2. This legislature does hereby reaffirm the desire and will of the people of Hawaii that statehood be granted them, and does hereby reassert that fulfillment of the rights of the people of Hawaii calls for enactment of enabling legislation without further delay.

SECTION 3. Duly certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Chairman of the Committee on Interior and Insular Affairs of the said Senate, the Chairman of the Committee on Interior and Insular Affairs of said House of Representatives, the Delegate to Congress from Hawaii, and the Secretary of the Interior.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 10, 1955.) H.J.R. 67, J.R. 21.

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### J. R. 22

Joint Resolution Requesting the Congress of the United States to Enact A Tariff on Fresh, Frozen and Unprocessed Fish and to Devote the Proceeds to Research.

WHEREAS, the waters of and adjacent to the Territory of Hawaii contain vast quantities of fish capable of supporting a large fishing industry; and

WHEREAS, the development and success of such an industry is dependent upon protection against the competition of foreign nations; and

WHEREAS, the development and prosperity of Hawaiian fisheries and fish canning and processing industries in the Territory of Hawaii would be conducive to the prosperity of the nation as well as the self-sufficiency of the Territory with respect to food supply; and

WHEREAS, the development of Hawaiian fisheries and fishing industries necessitates intensive research and investigation; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress of the United States be and it hereby is requested to enact a tariff imposing tariff rates on fresh, frozen and un-

processed fish products sufficiently high as to afford protection against foreign competition to the fishing industries of the United States and those of the Territory of Hawaii in particular.

SECTION 2. That the Congress be requested to earmark and set aside the proceeds of such tariff for scientific research designed to foster and develop Hawaiian and other American fisheries and fish canning and processing.

SECTION 3. That duly certified copies of this Joint Resolution be forwarded to the President of the United States, the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, and to the Delegate to Congress from Hawaii.

SECTION 4. That this Joint Resolution take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 13, J.R. 22.

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### J. R. 23

Joint Resolution Relating to Motor Vehicles License Plates.

WHEREAS, the American Association of Motor Vehicle Administrators, after years of study and consultation with industry engineers and other public officials, at its 1953 convention recommended that each motor vehicle licensing jurisdiction on the continent of North America adopt a standard size for motor vehicle license plates; and

WHEREAS, in November, 1954, the board of directors of the Automobile Manufacturers Association voted to recommend to all motor vehicle companies that they plan to accommodate the standard size license plates in 1957 and subsequent models; and

WHEREAS, as of February 18, 1955, 53 of the 65 states, provinces and other jurisdictions in North America have signified their intention to adopt the standard size license plate; and

WHEREAS, the present license plate in the Territory of Hawaii is not the standard size; and

WHEREAS, the movement toward a standard size license plate was not taken into consideration in 1951 when the legislature authorized, by Act 162, Session Laws of 1951, permanent license plates; and

WHEREAS, the foregoing considerations demonstrate the need for a standard size license plate in the Territory of Hawaii; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Notwithstanding the provisions of Act 162, Session Laws of 1951, each county treasurer may issue standard size license plates in connection with the first registration of a motor vehicle subsequent to September 1, 1956, charging therefor the costs provided in said Act 162 in the case of original registration, and the secretary of the Territory is required to make the necessary contractual arrangements so that the said issuance of standard size license plates may be accomplished.

SECTION 2. In the event the 1957 models of the major automobile manufacturers are designed for only one license plate at the rear of the

vehicle, then, notwithstanding the provisions of Act 162, Session Laws of 1951, each county treasurer is required to issue one standard size license plate in connection with the first registration of a motor vehicle subsequent to September 1, 1956, charging therefor the costs provided in said Act 162 in the case of original registration, and the secretary of the Territory is required to make the necessary contractual arrangements so that the said issuance of the standard size license plate may be accomplished.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 90, J.R. 23.

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### J. R. 24

Joint Resolution Directing the Bureau of Workmen's Compensation in the Department of Labor and Industrial Relations to Record and Report Certain Data to the Twenty-Ninth Legislature.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The bureau of workmen's compensation of the department of labor and industrial relations shall duly record and analyze such data and statistics as will clearly show the difference in cost between a two-day waiting period in the payment of benefits for temporary total disability in workmen's compensation cases as enacted by Act 13 of the Session Laws of Hawaii 1955 and the complete elimination of any waiting period whatsoever so that compensation will be paid upon the first day of disability, irrespective of the total length of such disability. A detailed report of such data shall be submitted to the Twenty-Ninth Legislature on or before the tenth day of the regular session of the Twenty-Ninth Legislature.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) H.J.R. 175, J.R. 24.

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### J. R. 25

Joint Resolution Respectfully Requesting the President of the United States and the Administrator of the Small Business Administration to Cause a Branch Office of the Small Business Administration to be Established in the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The President of the United States and the Administrator of the Small Business Administration are hereby respectfully requested to cause a branch office of the Small Business Administration to be established in the Territory of Hawaii.

SECTION 2. Duly authenticated copies of this Joint Resolution shall, on its approval, be forwarded to the President of the United States, to the

Administrator of the Small Business Administration, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 16, J.R. 25.

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### J. R. 26

Joint Resolution Authorizing the Registrar of Conveyances When Retyping the New Circuit Court and District Court Judgment Registers, to Delete from the New Registers Any Judgment Entries Which Have Been Fully Paid, Released and/or Discharged, and Also Any Judgment Entries Which Have Expired by Reason of the Statute of Limitations.

WHEREAS, section 10421, Revised Laws of Hawaii 1945, provides that actions on district court judgments or decrees must be commenced within six years of the date such action accrued; and

WHEREAS, under section 10425, Revised Laws of Hawaii 1945, circuit court judgments shall be presumed to have been paid and discharged at the expiration of ten years after the rendition of such judgments or decrees; and

WHEREAS, many of the entries in both the circuit court and district court judgment registers have been fully paid, released and/or discharged; and

WHEREAS, both the circuit court and district court judgment registers are in bad physical condition due to constant daily usage by abstractors and others and must be retyped from time to time by the office of the registrar of conveyances; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The registrar of conveyances is hereby authorized and empowered when retyping the old circuit court and district court judgment registers, to delete from the retyped registers all those entries which the registers show have theretofore been fully paid, released and/or discharged, and also to delete from such retyped registers any judgment entries which have theretofore expired by reason of the statute of limitations and which shall be considered duly paid and discharged.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 55, J.R. 26.



## J. R. 27

Joint Resolution Requesting the Congress of the United States to Ratify and Confirm Section 4539, Revised Laws of Hawaii 1945, Section 1 (b), Act 12, Session Laws of Hawaii 1951, and all Sales of Public Lands Consummated Pursuant to said Statutes.

WHEREAS, there are many small and scattered remnants of public lands resulting from the abandonment of roads, railroad or ditch rights of way, or portions thereof, and the taking by the Territory, under its power of eminent domain, of land in excess of that needed for public purposes, because public policies or other justifiable cause necessitates such taking; and

WHEREAS, these remnants of public lands are usually too small in area or too irregular in shape to be of any use to anyone except abutting land owners; and

WHEREAS, whenever there is no further public use for these remnants and the same shall be disposed of by the Territory, they should first be offered to the abutting land owners; and

WHEREAS, the legislature has enacted statutes to provide for such disposal, but these statutes have never been ratified or confirmed by the Congress of the United States; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America be, and it hereby is, requested to enact legislation ratifying and confirming the provisions of section 4539, Revised Laws of Hawaii 1945, section 1 (b), Act 12, Session Laws of Hawaii 1951 and the sales of public lands consummated pursuant to the terms of said statutes, and to that end the said Congress is hereby requested and urged to adopt a bill in substantially the following form, to-wit:

"A Bill to Ratify and Confirm Section 4539, Revised Laws of Hawaii 1945, Section 1 (b), Act 12, Session Laws of Hawaii 1951, and the Sales of Public Lands Consummated Pursuant to the Terms of Said Statutes.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,*

That section 4539, Revised Laws of Hawaii 1945, is hereby ratified and confirmed.

Sec. 2. Section 1 (b), Act 12, Session Laws of Hawaii 1951, is hereby ratified and confirmed.

Sec. 3. All sales of public lands to abutting land owners consummated pursuant to the terms of the foregoing statutes are hereby ratified and confirmed and shall be deemed and held to be perfect and valid as of the date of the sales.

Sec. 4. This act shall take effect on and after the date of its approval."

SECTION 2. Certified copies of this Joint Resolution shall, upon its approval, be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Con-

gress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 101, J.R. 27.

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### J. R. 28

Joint Resolution Requesting the Congress of the United States to Admit Members of the Immediate Families of Resident Nationals and Permanently Resident Aliens into the United States, its Possessions and Territories, on a Non-Quota Basis.

WHEREAS, there are large numbers of nationals and permanently resident aliens on the continental United States and in its possessions and territories; and

WHEREAS, presently, said nationals and resident aliens are physically separated from their respective families, and in many instances, such separations have been for a number of years; and

WHEREAS, presently, these family members may only enter the continental United States, its possessions and territories, under the quotas assigned for such nations; and

WHEREAS, these prolonged separations have given rise to undesirable social consequences to the extent of becoming a morals problem, and which undeniably have contributed to crime incidences; but more particularly, these separations have been an attributable cause of the breaking up of family units; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation to admit members of the families of resident nationals and permanently resident aliens into the United States and its possessions and territories on a non-quota basis; **provided**, however, that such nationals and resident aliens have been bona fide residents of the United States or its possessions or territories for no less than 10 years preceding the date of the enactment of such legislation; and **provided** further, that such nationals and resident aliens are gainfully employed at the time of their application for the admission of their family members into the United States or its possessions or territories.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Attorney General of the United States, and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 113, J.R. 28.

**J. R. 29**

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Permitting the Territory of Hawaii to Guarantee or Insure Disaster Loans.

WHEREAS, the Territory of Hawaii and its people have been subjected, from time to time, to the action of some of the most destructive forces of nature, such as earthquake, volcanic eruptions, tidal wave, drought, and flood; and

WHEREAS, it is extremely difficult, if not impossible, for the people of the Territory of Hawaii to protect their property adequately against such hazards; and

WHEREAS, it is in the public interest for the government of the Territory of Hawaii to do what it can to make such provision that persons will lend money to those who have suffered damage from the action of these forces of nature; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to pass legislation enabling the Territory of Hawaii to guarantee or insure loans made to persons who are required to borrow as a result of damage caused by some natural force such as earthquake, volcanic eruptions, tidal wave, drought, or flood.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior and the Delegate to Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 11, 1955.) S.J.R. 119, J.R. 29.

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**J. R. 30**

Joint Resolution Requesting the Congress of the United States to Provide Continued Reimbursement to the Territory of Hawaii for the Care and Treatment of Hansen's Disease Patients in Hawaii.

WHEREAS, Public Law 411 of the 82nd Congress, approved June 25, 1952 ((66 Stat. 157) provides that the Surgeon General of the United States shall pay to the Board of Health of the Territory of Hawaii upon funds being available a sum of money to be computed upon the per diem cost of caring for Hansen's disease patients in facilities operated by the Board of Health; and

WHEREAS, the Public Health Service budget includes a request for \$1,000,000 to reimburse the Territory of Hawaii for care and treatment of Hansen's disease patients; and

WHEREAS, the public services offered in the Territory of Hawaii to persons suffering from Hansen's disease have proved an invaluable service both to the people of the Territory and to all citizens of the United

States through the furthering of research in this field; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to approve the budget request of the Public Health Service of the United States which will continue the present federal aid to the Hansen's disease program of the Board of Health of the Territory of Hawaii, now provided by Public Law 411, 82nd Congress, approved June 25, 1952 (66 Stat. 157).

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 12, 1955.) S.J.R. 30, J.R. 30.

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### J. R. 31

Joint Resolution Requesting the Congress of the United States to Revise and Extend the Sugar Act of 1948, as Amended.

WHEREAS, the sugar industry of Hawaii, composed of several thousand growers of sugar cane, is an integral and vitally important part of the economy of the Territory of Hawaii; and

WHEREAS, the dynamic progress and technological advancements which have distinguished and do now distinguish the Hawaiian sugar industry from other segments of the domestic sugar industry, require that all domestic sugar producing areas of the United States shall henceforth share in supplying the continued growth of the sugar market in the United States; and

WHEREAS, there have been introduced in the Congress of the United States identical bills known as S. 1635 and H. R. 5406, which propose amendments to the Sugar Act of 1948, as amended, and such bills provide for restoring to domestic sugar producing areas, including Hawaii, their historic right to share in the continued growth of the United States sugar market; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation with provisions identical to those now contained in S. 1635 and H. R. 5406 in the Congress of the United States, amending the Sugar Act of 1948, as amended.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States and to the President of the Senate and the Speaker of the House of Representatives of the United

States, to the Secretary of Agriculture, to the Secretary of Interior and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 12, 1955.) S.J.R. 85, J.R. 31.

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### J. R. 32

Joint Resolution Memorializing the Congress of the United States of America to Extend the Provisions of the Agricultural Act of 1954, as it Relates to the Special School Milk Program, to the Territory of Hawaii.

WHEREAS, the Congress of the United States of America has enacted legislation to increase milk consumption in the schools of the nation; and

WHEREAS, the benefits of this legislation have been extended to all states without regard to milk production within the states; and

WHEREAS, the Territory of Hawaii has been excluded from participation in this program and thereby denied the benefits enjoyed by the states of improved child health through the stimulation of milk consumption and the development of milk drinking habits; and

WHEREAS, the exclusion of the Territory of Hawaii from participation in the national school milk program is discriminatory to Hawaii; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to extend the provisions of the agricultural Act of 1954, as it relates to the special school milk program, to the Territory of Hawaii.

SECTION 2. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of Agriculture, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 13, 1955.) H.J.R. 119, J.R. 32.

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### J. R. 33

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Permitting the Conveyance of Public Lands at Weliweli, Kona, Island of Kauai, Territory of Hawaii, to Certain Claimants.

WHEREAS, for over twenty-five years there has existed a dispute between the Territory of Hawaii and various private parties as to the legal ownership of a tract of land situate at Weliweli, Kona, Island of Kauai; and

WHEREAS, the Territory contends that the land is now and always has been government land; and

WHEREAS, a number of persons have heretofore purchased in good faith and for adequate consideration from private sources lots in said tract of land; and

WHEREAS, the sale of these lots to such persons was made upon the assumption that said lots were private property and not government land; and

WHEREAS, it is just and equitable that the government quitclaim its title to said lands for a fair consideration to those person or persons claiming under color of title; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested, any provision of the laws of Hawaii relating to public lands and section 73 of the Hawaiian Organic Act to the contrary notwithstanding, to enact legislation permitting the commissioner of public lands, with the approval of the governor, and two-thirds of the members of the board of public lands to convey by quitclaim deeds to the person or persons claiming under color of title any lot in the tract of land described as follows:

“Portion of the Government land of Weliweli  
At Weliweli, Kona, Kauai

Being portion of the Government land of Weliweli occupied and claimed by various persons as portions of Grant 1408 to Kauiahewa and Grant 1416 to Eke Opunui.

Beginning at a pipe in ahu at the northwest corner of this parcel of land and on the boundary between the lands of Koloa and Weliweli, said pipe in ahu marking the end of Course 40 of Land Court Application 956 and being the initial point of Lot A of Land Court Application 1188, the coordinates of said point of beginning referred to Government Survey Triangulation Station “LAAUKAHI” being 23298.80 feet South and 2361.40 feet East, and running by azimuths measured clockwise from True South:

1. 261° 57' 30" 328.40 feet along Land Court Application 1188 to a pipe;
2. 14° 22' 00" 573.10 feet along Grant 1408 to Kauiahewa to a pipe set in top of stonewall;
3. 117° 30' 00" 46.10 feet along R. P. 3750, L. C. Aw. 3359, Apana 1 to Niihau to a pipe;
4. 348° 30' 00" 102.90 feet along R. P. 3750, L. C. Aw. 3359, Apana 1 to Niihau to a pipe;
5. 14° 22' 00" 86.36 feet along Grant 1408 to Kauiahewa and Grant 1416 to Eke opunui;
6. 105° 35' 00" 21.81 feet along Land Court Application 1373;
7. 8° 33' 00" 112.00 feet along Land Court Application 1373 to seashore at highwater mark;

Thence along seashore at highwater mark for the next three courses, the direct azimuths and distances between points at seashore being:

8.  $68^{\circ} 56' 30''$  117.28 feet;
9.  $74^{\circ} 53' 00''$  54.75 feet;
10.  $65^{\circ} 18' 00''$  173.90 feet; thence
11.  $193^{\circ} 27'$  932.00 feet along the boundary between the lands of Koloa and Weliweli to the point of beginning and containing a GROSS AREA of 260,235 SQUARE FEET after deducting and excluding therefrom the following described parcel of land being the present Kuai and Poipu Roads and additional areas required for widening said roads to a width of 50 feet;

Beginning at the west corner of this parcel of land, on the new south side of Poipu Road and on the boundary between the lands of Koloa and Weliweli, the coordinates of said point of beginning referred to Government Triangulation Station "LAAU-KAHI" being 23902.35 feet South and 2217.06 feet East, and running by azimuths measured clockwise from True South:

1.  $193^{\circ} 27' 00''$  50.03 feet along the boundary between the lands of Koloa and Weliweli;
2.  $285^{\circ} 33' 00''$  96.98 feet along the new north side of Poipu Road;
3. Thence on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:  $239^{\circ} 55' 30''$  28.59 feet;
4.  $194^{\circ} 18' 00''$  565.43 feet along the new west side of Kuai Road;
5. Thence along the west side of Kuai Road, on a curve to the left with a radius of 829.00 feet, the chord azimuth and distance being:  $192^{\circ} 58' 04''$  38.55 feet;
6.  $261^{\circ} 57' 30''$  52.91 feet along Land Court Application 1188;
7. Thence along the new east side of Kuai Road, on a curve to the right with a radius of 879.00 feet, the chord azimuth and distance being:  $12^{\circ} 23' 13''$  58.69 feet;
8.  $14^{\circ} 18' 00''$  567.39 feet along the new east side of Kuai Road;
9. Thence on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:  $329^{\circ} 55' 30''$  27.97 feet;
10.  $285^{\circ} 33' 00''$  107.56 feet along the new north side of Poipu Road;
11.  $14^{\circ} 22' 00''$  39.81 feet along Grant 1416 to Eke Opunui;
12.  $105^{\circ} 33' 00''$  21.81 feet along Land Court Application 1373;
13.  $8^{\circ} 33' 00''$  10.28 feet along Land Court Application 1373;
14.  $105^{\circ} 33' 00''$  272.98 feet along the new south side of Poipu Road to the point of beginning and containing an area of 46410 Square Feet.

Reserving also to the Territory of Hawaii in perpetuity an easement fifteen (15) feet wide for storm drain purposes upon and across that portion of the government land of Weliweli occupied by the B. D. Baldwin Trust Estate, running from the new south side of Poipu Road to the sea, described as follows:

Being a strip of land 15.00 feet wide, extending for 7.50 feet on each side of the centerline described as follows:

Beginning at the north end of this right-of-way on the new south side of Poipu Road, at a point which is 105° 33' 00" 131.49 feet from the end of Course 13 of the road exclusion as described above, the coordinates of said point of beginning referred to Government Survey Triangulation Station "LAAUKAHI" being 23940.28 Feet South and 2353.37 feet East, and running by azimuths measured clockwise from True South:

1. 359° 19' 00" 178.00 feet to seashore at highwater mark."

SECTION 2. The lots shall be conveyed for a fair and reasonable price, which price shall be determined by a disinterested appraiser or appraisers, but not more than three to be appointed by the Governor of Hawaii, and all improvements thereon shall be valued at \$1.00.

SECTION 3. Before the commissioner executes quitclaim deeds, the respective claimants shall quitclaim to the Territory any claim they may have in and to the roadways hereinabove described, and confirm the easement hereinabove referred to.

SECTION 4. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 5. This Joint Resolution shall take effect upon its approval.

(Approved May 13, 1955.) H.J.R. 163, J.R. 33.

### J. R. 34

Joint Resolution Requesting the Legislative Reference Bureau to Make a Study of the Need for the Establishment of a Residential Study and Treatment Center to Aid Children Manifesting Symptoms of Maladjustment and Anti-Social Behavior.

WHEREAS, the children and youths of today are our most valuable resources in determining the future of the Territory of Hawaii; and

WHEREAS, many of our children manifest symptoms of maladjustment and anti-social behavior and are highly vulnerable of becoming juvenile delinquents and adult criminals; and

WHEREAS, there are no diagnostic facilities or institutions to aid in or care for these maladjusted and anti-social children, other than the training schools for delinquent children; and

WHEREAS, many of these children and youths can be helped in their maladjustment and anti-social behavior pattern through proper diagnosis and institutional care; now, therefore,



*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Legislative Reference Bureau of the Territory shall make a territory wide study on the need for an institution on Oahu, other than the training schools, to care for maladjusted and anti-social children of the Territory of Hawaii who can be aided through such an institution. If there is a finding for the need of such an institution, the Legislative Reference Bureau shall make recommendations for its establishment and operation. The Legislative Reference Bureau may seek the assistance and cooperation of any territorial government agency or agencies.

SECTION 2. The Legislative Reference Bureau shall submit its findings and recommendations to the Twenty-Ninth Legislature of the Territory of Hawaii on or before the third day of said legislative session.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 13, 1955.) H.J.R. 90, J.R. 34.

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### J. R. 35

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Granting the Status of Public Lands to Certain Tidal Reef Lands and Authorizing the Commissioner of Public Lands to Lease Same for a Period of 55 Years.

WHEREAS that certain tidal reef lying off the Ala Moana Park in the City and County of Honolulu, Territory of Hawaii, and being bounded by the Kewalo Channel, the Kewalo Basin, the Ala Wai Yacht Harbor Channel and the Ala Wai Yacht Harbor, is not devoted to any beneficial or economic use; and

WHEREAS, said tidal reef is capable of being developed as a resort and recreation area to the great advantage of the people of Hawaii and the enhancement of the tourist industry provided the Territory is able to lease the same for a term of years sufficient to permit the expense of such development to be capitalized; and

WHEREAS, to effect such a long-term lease of said tidal reef Congressional authority is required; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress of the United States of America be, and it hereby is, respectfully requested to authorize the Commissioner of Public Lands with the consent of the Board of Harbor Commissioners and the approval of two-thirds of the Board of Public Lands, Territory of Hawaii, to lease certain tidal reef lands for a term not to exceed 55 years; and to that end the Congress of the United States of America is respectfully requested and urged to adopt a bill in substantially the following form, to-wit:

"A Bill Granting the Status of Public Lands to Certain Tidal Reef Lands and Authorizing the Commissioner of Public Lands of the Territory of Hawaii to Lease Same for a Term not to Exceed 55 Years.

*Be it Enacted by the Senate and House of Representatives of the*

*United States of America in Congress Assembled:*

SECTION 1. The tidal reef lands described in section 2 of this Act are hereby given the status of public lands within the meaning of the Hawaiian Organic Act (31 Stat. 141) and placed under the control of the Commissioner of Public Lands of the Territory of Hawaii. **Provided** that the chief of Engineers, United States Army, interposes no objection thereto, the Commissioner of Public Lands with the consent of the Board of Harbor Commissioners and the approval of two-thirds of the Board of Public Lands, Territory of Hawaii, is authorized to lease all or any portion of said tidal reef lands for terms not to exceed 55 years and to permit or require the filling of said tidal reef lands and the use thereof for private or public purposes. Any such lease shall be sold at public auction and may contain such terms, covenants and conditions as the Commissioner of Public Lands may deem proper and as are approved by the said Board of Public Lands.

SECTION 2. The tidal reef lands to which this Act refers are more particularly described as follows:

## Portion of Ala Moana Reef Area

Kukuluaeo and Kalia, Honolulu, Oahu, T. H.

Beginning at the northeast corner of this parcel of land and on the south boundary of Ala Moana Park (Governor's Proclamation dated January 16, 1928), the coordinates of said point of beginning referred to Government Survey Triangulation Station 'PUNCH-BOWL' being 8958.47 feet South and 1669.86 feet East, as shown on Government Survey Registered Map 1986, and running by azimuths measured clockwise from True South:-

1. 18° 15' 30" 2048.55 feet;
2. 45° 00' 325.31 feet along area transferred to the Territory of Hawaii by Presidential Proclamation 1856, dated October 27, 1928;
3. 117° 32' 05" 5391.68 feet along line of breakers;
4. 214° 00' 940.98 feet;
5. 276° 52' 30" 1029.97 feet;
6. 212° 55' 520.00 feet to the south corner of Addition to Kewalo Basin (Governor's Executive Order 1330);
7. 307° 55' 496.30 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);
8. 291° 44' 437.70 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);
9. 286° 37' 173.30 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);
10. 278° 56' 412.60 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);
11. 287° 07' 718.00 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);
12. 292° 09' 476.80 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);

13. 297° 52'      359.40 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928);  
 14. 285° 05'      1040.00 feet along Ala Moana Park (Governor's Proclamation dated January 16, 1928) to the point of beginning and containing an Area of 222.684 Acres.

SECTION 3. This Act shall take effect upon its approval."

SECTION 2. That certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval,

(Approved May 13, 1955.) S.J.R. 17, J.R. 35.

### J. R. 36

Joint Resolution Requesting the Congress of the United States to Amend the Restrictive Covenant in Land Patent Numbered 10,410.

WHEREAS, land patent numbered 10,410, covering certain lands at Ponahawai, South Hilo, Island of Hawaii, contains a restrictive covenant requiring that said lands be used for school purposes only; and

WHEREAS, the owners and users of said lands desire to have their premises usable for both religious and school purposes; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to adopt a bill in substantially the following form, to-wit:

"A Bill to Authorize the Amendment of the Restrictive Covenant on Land Patent Numbered 10,410, Issued to Keoshi Matsunaga, His Heirs and Assigns, on July 20, 1936, and Covering Lot 48 of Ponahawai House Lots, Situated in the County of Hawaii, Territory of Hawaii.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled,*

That the commissioner of public lands of the Territory of Hawaii, with the consent of the governor of said Territory of Hawaii, be authorized to amend the restrictive covenant set forth in land patent numbered 10,410, so that said restrictive covenant will read as follows:

"The land herein described and conveyed is granted and conveyed upon the covenant running with the land, that said land is to be used for religious and/or school purposes only, and in the event of its being used for other than religious and/or school purposes, this patent shall become void, and the whole of said land, together with the fee thereof, and the improvements thereon, shall, without

warrant or other legal process, immediately revert to and revest in the Territory of Hawaii.'

SECTION 2. This Act shall take effect on and after the date of its approval."

SECTION 2. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 13, 1955.) S.J.R. 95, J.R. 36.

### J. R. 37

Joint Resolution Requesting the Congress of the United States to Place Under Control of the Territory Lands Held but Not in Use by the Armed Forces.

WHEREAS, large areas of the lands in the Territory of Hawaii held by the armed forces of the United States are not being used by the armed forces; and

WHEREAS, the use of these lands by the Territory would prove of great benefit to the people of Hawaii; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress of the United States be requested to place under the control of the Territory all lands held by the United States Armed Forces and not being used by them as determined by the duly authorized and empowered agencies or departments of the Armed Forces of the United States.

SECTION 2. That certified copies of this Joint Resolution be transmitted to the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 13, 1955.) H.J.R. 43, J.R. 37.

### J. R. 38

Joint Resolution Authorizing the Board of Commissioners of Agriculture and Forestry to Make Rules and Regulations for the Weighing of Coffee Shipped to Points Outside the Territory, and Providing for Certification of Such Weights.

WHEREAS, coffee shipped to points outside the Territory have weighed less at its points of destination than when initially weighed for shipment by the shipper, due principally to the dehydration of such coffee en route to its destination; and

WHEREAS, this differential in the coffee weights has been a cause for disputes to the detriment of the shipper and the coffee industry generally; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of commissioners of agriculture and forestry be, and it is hereby, authorized to make rules and regulations respecting the weighing of coffee prior to its shipment to points outside the Territory, and providing for the certification of weights thereof; further, that a reasonable schedule of fees to defray the expense of administering this Act shall be established by the board, which fees shall be collected and deposited with the treasurer of the Territory in the existing special fund of the board known as the "marketing inspection and agriculture control fund", and so much thereof as shall constitute the amount collected under this Joint Resolution is hereby appropriated to effectuate the purposes herein; **provided**, however, that the board shall consult the appropriate industries, organizations and agencies prior to the promulgation of such rules and regulations as provided herein.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved May 16, 1955.) S.J.R. 133, J.R. 38.

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### J. R. 39

Joint Resolution Requesting Congress to Authorize the Amendment of Certain Patents of Government Lands Containing Restrictions as to Use of Such Lands.

WHEREAS, the 82nd and 83rd Congresses have enacted legislation liberalizing the restrictions on the sale of territorial public lands for commercial uses, thus evidencing an intent to expand the commercial use of land in the Territory; and

WHEREAS, patents conveying certain former public lands contain restrictions limiting the use of such lands for residence and eleemosynary purposes; and

WHEREAS, due to changed conditions in the area surrounding such lands, restrictions in many instances prevent the lands from being developed to their highest and best use as business lots, thereby working a hardship on the owners thereof; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to authorize the commissioner of public lands, with the concurrence of the governor, to amend such land patents by removing the conditions therein restricting the use of such lands for residence or eleemosynary purposes, so that the lands will be free of any such encumbrances; **provided**, however, no such restriction shall be removed in patents conveying an area in excess of one-half acre; and, **provided**, further, that in the opinion of the commissioner the surrounding area in which such lands are located has sufficiently changed to warrant such action.

SECTION 2. Duly certified copies of this Joint Resolution shall be

transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 17, 1955.) S.J.R. 5, J.R. 39.

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### J. R. 40

Joint Resolution Requesting the Congress of the United States to Ratify and Confirm Act 199 of the Session Laws of Hawaii 1955, Authorizing the Board of Supervisors of the City and County of Honolulu to Issue General Obligation Bonds in the Sum of Six Million Dollars (\$6,000,000.00) for the Completion of the Construction of the Kalihi Tunnel and its Approach Roads and for the Construction of a Second Bore.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to ratify and confirm Act 199 of the Session Laws of Hawaii 1955, authorizing the board of supervisors of the city and county of Honolulu to issue general obligation bonds in the sum of Six Million Dollars (\$6,000,000.00) for the completion of the construction of the Kalihi Tunnel and its approach roads and for the construction of a second bore.

SECTION 2. Duly authenticated copies of this Joint Resolution shall, upon its approval, be forwarded to the President of the United States, to the President and Vice President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Secretary of the Interior and to the Delegate to Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 18, 1955.) H.J.R. 180, J.R. 40.

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### J. R. 41

Joint Resolution Memorializing the Congress of the United States of America to Authorize the Rural Electrification Administration, Department of Agriculture, to Send its Representative to Hawaii to Investigate the Possibility of Setting Up a Rural Electrification Cooperative Under the Rural Electrification Administration to Serve Areas without Electricity in the County of Hawaii.

WHEREAS, there exists in the county of Hawaii considerable areas suitable for homesites and agricultural purposes not now served by electric power lines; and

WHEREAS, the productive development of such homesites and agricultural lands is hampered by the non-availability of electricity; and

WHEREAS, the United States Government, under the Rural Electri-

fication Administration, has provided for the creation of Rural Electrification Cooperatives, and appropriated loan funds to be used in supplying electricity to such areas; and

WHEREAS, it is felt that the county of Hawaii does qualify for the benefits administered by the Rural Electrification Administration; and

WHEREAS, the county of Hawaii has never previously benefited from said funds; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to authorize the Rural Electrification Administration to send its representative to Hawaii to investigate the possibility of setting up a rural electrification cooperative under the Rural Electrification Administration to serve areas without electricity in the county of Hawaii.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of Agriculture, to the Administrator of the Rural Electrification Administration and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 18, 1955.) H.J.R. 130, J.R. 41.

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### J. R. 42

Joint Resolution Requesting the Congress of the United States to Enact Legislation to Provide that the Proceeds of Sales of Real Property Owned by Estates, Trusts and Individuals Where Owned by Said Estates, Trusts or Individuals for Ten Consecutive Years Prior to Said Sale or Sales be Taxed for Federal Income Tax Purposes as Capital Gains and Not as Ordinary Income.

WHEREAS, large tracts of land in the Territory of Hawaii are owned by estates and trusts, and individuals who may have inherited said lands; and

WHEREAS, it is to the best interests of this Territory that these lands be subdivided and sold in fee simple to the purchasers thereof; and

WHEREAS, the owners of said lands desire to cooperate with the government housing programs and otherwise to make available said lands to small homeowners but are prevented from so doing in the majority of instances because the owners of said lands on subdivision and sale might be taxed on the proceeds thereof for federal income tax as ordinary income; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby requested to amend the Internal Revenue Code, or by other appropriate legislation, to provide that where real property has been owned for a period of not less than ten years consecutively prior to any sale thereof by any es-

tate, trust, or individual, that on any sale of said real property, whether by subdivision or otherwise, the proceeds of said sale or sales shall be taxable for federal income tax purposes as a capital gain, or gains, and not as ordinary income.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Treasury of the United States, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1955.) H.J.R. 89, J.R. 42.

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### J. R. 43

Joint Resolution Requesting the Congress of the United States to Amend Section 73 of the Hawaiian Organic Act to Authorize the Commissioner of Public Lands to Sell Residence Lots Without Further Notice or Auction After Six Months After Said Lots were First Offered for Sale.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to amend section 73 (1) of the Hawaiian Organic Act substantially as set forth in the following form of bill:

"A Bill to Amend Section 73 (1) of the Hawaiian Organic Act.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

Section 1. The portion of the first proviso of section 73 (1) of the Hawaiian Organic Act which reads "That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen, for residence purposes lots and tracts, not exceeding three acres in area;" is hereby amended to read as follows:

"That the commissioner shall, with the approval of said board, sell to any citizen of the United States, or to any person who has legally declared his intention to become a citizen for residence purposes lots and tracts, not exceeding three acres in area; but any lot not sold after public auction, or sold and forfeited, or any lot or part thereof surrendered with the consent of the commissioner, which is authorized, may be disposed of upon application at no less than the advertised price without further public notice or auction but after a six months' period following the auction, only upon reappraisal and at the price of the reappraised value, if it be greater than the original price at the auction;"

SECTION 2. This Act shall take effect on and after the date of its approval."

SECTION 2. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate



and Speaker of the House of Representatives of the Congress of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 19, 1955.) S.J.R. 105, J.R. 43.

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#### J. R. 44

Joint Resolution Authorizing the Board of Supervisors of the County of Kauai to Provide for the Transportation of Certain School Children.

WHEREAS, under the existing school zoning system, children living at Hanalei, Kilauea, Moloaa, and Anahola, Kauai, are required to attend Kapaa high school, children living at Koloa, Kauai, are required to attend Kauai high school, and children living at Kalaheo and Eleele, Kauai, are required to attend Waimea high school; and

WHEREAS, the county of Kauai does not currently provide transportation to and from Kapaa high school, Kauai high school, and Waimea high school for these children; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of the county of Kauai is hereby authorized to provide, by contract, suitable transportation to and from Kapaa high school, Kauai high school, and Waimea high school, free of charge, for children who reside beyond a radius of 10 miles from and are required to attend said high schools.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved May 20, 1955.) H.J.R. 41, J.R. 44.

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#### J. R. 45

Joint Resolution Requesting the Congress of the United States to Waive Certain Restrictions with Respect to Exchanges of Public Lands for Emergency Relief to Distressed Persons in Puna, Hawaii.

WHEREAS, recent volcanic activity in the District of Puna, County of Hawaii, Territory of Hawaii, has desolated many acres of heretofore productive farm lands; and

WHEREAS, unlike other catastrophic events which befall lands and render them only temporarily unproductive, lands inundated by flowing lava are rendered totally worthless for thousands of years; and

WHEREAS, there is little or no privately owned land in or about the District of Puna, Hawaii, available for purchase by those persons whose lands have been so destroyed; and

WHEREAS, there are substantial acreages of public lands within and adjacent to the said District of Puna, Hawaii, which can be exchanged for lands destroyed by volcanic activity; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact suitable legislation to direct the Land Commissioner of the Territory of Hawaii to exchange public lands within or adjacent to the District of Puna, County of Hawaii, Territory of Hawaii, for lands destroyed by volcanic activity occurring during March and April, 1955, such exchange to be of lands of comparable value and area immediately prior to the time of destruction, any provision in the Hawaiian Organic Act in limitation of such authority to the contrary notwithstanding.

SECTION 2. Duly certified copies of this Resolution shall be forwarded to the President of the United States, President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 20, 1955.) S.J.R. 121, J.R. 45.

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### J. R. 46

Joint Resolution Directing Certifying and Disbursing Officers of the City and County of Honolulu to Make Adjustments in the Pay of Certain Employees.

WHEREAS, Torao Yanagisako and Hisao Shigeta, now employed by the suburban water system, city and county of Honolulu, were transferred to said employment when the city and county of Honolulu purchased the Wahiawa Water Company; and

WHEREAS, an agreement was made by and between the seller and purchaser of said water company that the employees of the water company were to be hired by the purchaser with no monetary loss to any of the said employees; and

WHEREAS, the above-mentioned employees, upon being so hired, had their positions classified and assigned increment steps in pay grades with salaries lower than that received while employed by the water company because of a provision in Act 278 requiring that employees enter government service at the first increment step of the appropriate pay grade for their positions; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any provision of any law to the contrary notwithstanding, the director of classification for the city and county of Honolulu is hereby directed to allocate the positions of Torao Yanagisako, SWS 544, and Hisao Shigeta, SWS 543, to those increment steps in the appropriate pay grades so that their salaries will not be lower than the salaries they received immediately preceding their entry into the service of the city and county of Honolulu.

SECTION 2. All appropriate disbursing officers of the city and county of Honolulu are hereby directed to honor certifications made under the provisions of section 1 hereof.

SECTION 3. Any provision in any law to the contrary notwithstanding, all actions taken under the provisions of sections 1 and 2 above shall be retroactive to the date on which the above-mentioned individuals entered the classified service of the city and county of Honolulu.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 20, 1955.) S.J.R. 52, J.R. 46.

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### J. R. 47

Joint Resolution Requesting Congress to Permit Certain Exceptions to the Laws Governing the Sale and Exchange of Public Lands in the Territory of Hawaii.

WHEREAS, there are throughout the Territory many small parcels of public land ranging in size from a few square feet to a few acres which are landlocked without any right of way thereto and therefrom; and

WHEREAS, it has been found extremely difficult and cumbersome to sell or dispose of such parcels under the Hawaiian Organic Act which provides for the sale or disposition of public lands by public auction only; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation permitting the sale by the land commissioner of small parcels of landlocked public lands not exceeding one-half acre to the owners of adjoining lands at their appraised value without the necessity of selling such lands at public auction.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 25, 1955.) S.J.R. 19, J.R. 47.

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### J. R. 48

Joint Resolution Requesting the Congress of the United States to Amend the "Social Security Act Amendments of 1952" (Public Law 590, 82nd Congress), as Amended, Relating to Veterans' Benefits.

WHEREAS, the present laws covering social security benefits provide that in determining monthly benefits or lump sum death payments members of the armed forces shall be credited with monthly earnings of \$160 during their period of service; and

WHEREAS, many persons who served or are serving in the armed forces earned in civilian life amounts in excess of such sum; and

WHEREAS, the present laws are therefore discriminatory with respect to such persons; now, therefore

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby requested to amend subsection (a) of section 5 of the "Social Security Act Amendments of 1952" (Public Law 590, 82nd Congress) so that the first paragraph of subsection (e) (1) added to section 217 of the Social Security Act, as amended, will read as follows:

"(e) (1) For purposes of determining entitlement to and the amount of any monthly benefit or lump-sum death payment payable under this title on the basis of the wages and self-employment income of any veteran (as defined in paragraph (4) ), such veteran shall be deemed to have been paid wages (in addition to the wages, if any, actually paid to him) of \$160 in each month during any part of which he served in the active military or naval service of the United States on or after July 25, 1947, and prior to July 1, 1955, **provided**, that where such veteran's actual wages or average monthly earnings over a twelve month period immediately prior to active service exceeds \$160, such actual wages or average earnings shall be employed in making such determination of entitlement. This subsection shall not be applicable in the case of any monthly benefit or lump-sum death payment if—"

SECTION 2. Certified copies of this Joint Resolution shall, upon its approval, be forwarded to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 25, 1955.) **H.J.R. 13, J.R. 48.**

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### J. R. 49

Joint Resolution Requesting the Congress of the United States to Enact a Bill Enabling the Legislature of the Territory of Hawaii to Authorize the Board of Supervisors of the City and County of Honolulu to Issue Bonds for the Completion of, the Improvements to, and the Development of Certain Existing Public Parks and Playgrounds and for the Acquisition, Construction and Improvement of New Public Parks and Playgrounds in the City and County of Honolulu.

WHEREAS, additional public park areas are needed in the city and county of Honolulu; and

WHEREAS, the public parks and playgrounds are necessary for the health, safety and welfare of the people of the city and county of Honolulu; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested, through the Delegate to Congress from the Terri-

tory of Hawaii, to enact legislation which will enable the Territory of Hawaii, any provision of the Hawaiian Organic Act or any Act of this Congress notwithstanding, to authorize the board of supervisors of the city and county of Honolulu to issue general obligation bonds in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) for the completion of, the improvements to, and the development of certain existing public parks and playgrounds and for the acquisition, construction and improvement of new public parks and playgrounds in the city and county of Honolulu, and, to that end, the Congress of the United States of America is hereby respectfully requested and urged, through said Delegate to Congress, to adopt a bill in substantially the following form, to wit:

"A Bill to enable the legislature of the Territory of Hawaii to authorize the board of supervisors of the city and county of Honolulu to issue bonds in the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) for the completion of, the improvements to, and the development of certain existing public parks and playgrounds, and for the acquisition, construction and improvement of new public parks and playgrounds in the city and county of Honolulu.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

Section 1. The bonds issued under authority of this Act may be serial bonds payable in substantially equal annual installments, the first installment to mature not later than five years and the last installment to mature not less than thirty years from the date of such issue. Such bonds may be issued without the approval of the President of the United States.

Section 2. Act 210 of the Session Laws of Hawaii 1955 pertaining to the issuance of bonds for the completion of, the improvements to, and the development of certain existing public parks and playgrounds, and for the acquisition of new public parks and playgrounds in the city and county of Honolulu, as authorized by this Act, is hereby ratified and confirmed subject to the provisions of this Act.

**Provided**, however, that nothing herein contained shall be deemed to prohibit the amendment of such territorial legislation by the legislature of the Territory of Hawaii from time to time to provide for changes in the completions, improvements, developments, acquisitions and constructions authorized by such legislation and for the disposition of unexpended moneys realized from the sale of said bonds."

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the Senate, and to Speaker of the House of Representatives of the Congress of the United States of America, the Secretary of the Interior in Washington, D. C., and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1955.) S.J.R. 93, J.R. 49.

**J. R. 50**

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Amending the Hawaiian Homes Commission Act, 1920, to Authorize the Hawaiian Homes Commission to Approve and Guarantee Additional Loans to Hawaiian Homes Homesteaders by Private Financing Institutions.

WHEREAS, the Hawaiian Homes Commission has been unable to carry out its program of improving and fully developing homestead lands because of the limited funds available for loan purposes; and

WHEREAS, local banks, building and loan associations, and other financial institutions have expressed willingness to make additional loans to Hawaiian Homes homesteaders for improvement or repair purposes if the Hawaiian Homes Commission would guarantee such additional loans; and

WHEREAS, such additional loans would make funds available and would be desirable since they would permit the Hawaiian Homes Commission to adequately carry out its program of improving and developing homestead land; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to enact legislation amending the Hawaiian Homes Commission Act, 1920, to authorize the Hawaiian Homes Commission to approve and guarantee additional loans made by private financing institutions to those Hawaiian Homes homesteaders who need additional capital to improve or repair their homestead lands.

SECTION 2. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1955.) S.J.R. 136, J.R. 50.

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**J. R. 51**

Joint Resolution Relating to Housing: Requesting the Hawaii Housing Authority to Investigate and Determine Housing Conditions of, and the Need for Additional Housing for, Elderly Persons as Herein Defined: Requesting the Hawaii Housing Authority to Develop, Administer and Provide Housing and Other Facilities: Conferring Certain Rights, Powers, Privileges and Immunities, and Imposing Certain Duties Upon the Hawaii Housing Authority and Upon the Departments, Agencies and Political Subdivisions of the Territory: and Making Appropriations. WHEREAS, unsafe or unsanitary dwelling accommodations, many of

which are overcrowded and congested, exist in various areas of the Territory; and

WHEREAS, it may be that many elderly persons, as herein defined, are forced to reside in unsafe or unsanitary dwelling accommodations due to a lack of safe and sanitary dwelling accommodations for all of the inhabitants of the Territory and due to lack of financial means upon the part of elderly persons to secure safe and sanitary dwelling accommodations; and

WHEREAS, such conditions, if they exist and as they relate to elderly persons, may cause an increase in the spread of disease and crime or otherwise may detrimentally affect the health, safety, morals or welfare of the inhabitants of the Territory; and

WHEREAS, if such conditions exist, with the effects above-mentioned, the development and administration of safe and sanitary dwelling accommodations for elderly persons are public uses and purposes for which public money may be spent and private property acquired; and

WHEREAS, no investigation of such conditions, as they relate to elderly persons only, and of the need for additional safe and sanitary dwelling accommodations for such persons, has been made in the Territory by any governmental agency; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Definitions.** The following terms, wherever used or referred to in this Joint Resolution shall have the following respective meanings, unless a different meaning clearly appears from the context:

"Chapter 61" and "chapter 63" mean respectfully chapter 61 and chapter 63 of the Revised Laws of Hawaii 1945, including amendments to each chapter.

The terms "housing authority", "authority", "Territory", "political subdivisions", "government", "federal government" and "community facilities", shall have the same respective meanings as set forth in chapter 61 for each such term.

"Joint Resolution 4" means Joint Resolution 4 of the Session Laws of Hawaii 1947, including amendments thereto.

The terms "develop" or "development" and "administer" or "administration" shall have the same respective meanings as set forth for such terms in Joint Resolution 4.

"Housing project" or "project" shall include all real and personal property, buildings and improvements, stores, offices, lands for gardening or farming, and community facilities acquired or constructed or to be acquired or constructed under this Joint Resolution pursuant to a single plan or undertaking to provide safe and sanitary dwelling accommodations for elderly persons. Such terms may also be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith under this Joint Resolution; and the terms shall include all other real and personal property and all tangible or intangible assets held or used in connection with a housing project developed or administered under this Joint Resolution.

"Elderly person" means a person who is over sixty-five years of age,

who has resided in the Territory continuously for at least three years, and who is unable to secure safe and sanitary dwelling accommodations at a rental within the financial reach of such person.

**SECTION 2. Investigation of housing conditions.** That the authority be, and it is hereby, requested to investigate housing and housing conditions of elderly persons throughout the several areas within the Territory where, in its opinion, a number of such persons may reside. In making such investigations in such areas and in making the findings or determinations herein mentioned, the authority shall have all of the powers, privileges and immunities that such authority has under sections 3509, 3510, 3511 and 3512 of chapter 61.

**SECTION 3. Findings; housing projects; political subdivisions; agreements.** If, upon making such investigations, the authority finds and determines from the facts that exist (1) that a number of elderly persons are forced to reside in unsafe or unsanitary dwelling accommodations in any area or areas within the Territory (to be designated by the authority) due to a lack of financial means on the part of such persons to secure safe and sanitary dwelling accommodations, (2) that such conditions cause an increase in the spread of disease or crime or otherwise detrimentally affect the health, safety, morals or welfare of the inhabitants of the Territory, and (3) that it is necessary or desirable, in the advancement of the public health, safety, morals, or welfare, that housing projects be developed and administered by the authority within any such area or areas in regard to which it has found and determined that facts (1) and (2), above, exist, then, and in such case, the authority is hereby requested to do any and all things necessary to develop a housing project within each area in regard to which it has found and determined that facts (1), (2) and (3), above, exist, and to the extent that moneys have been appropriated and may be available to it for such purpose;

**Provided, however,** that no such housing project shall be developed in any political subdivision unless:

(1) The board of supervisors of such political subdivision shall by resolution request the authority to develop a housing project or projects within such political subdivision and shall approve the site or sites thereof; and

(2) Such political subdivision shall enter into a cooperation agreement with the authority (which agreement shall be specifically enforceable) whereby the political subdivision shall obligate itself, during the time the authority maintains and administers such housing project:

(a) That such political subdivision shall not levy or impose any real or personal property taxes or special or improvement district assessments upon such housing project or upon the authority in regard thereto;

(b) That the political subdivision shall furnish, or cause to be furnished, to the authority, without cost or charge to the authority or to the tenants of such housing project, public services and facilities which are, upon the enactment of this Joint Resolution, being furnished without cost or charge to any other dwellings or any other inhabitants of such political subdivision, including but not limited to: fire, police and health protection and services; nursing, medical or hospital care for the sick, aged, poor or indigent; maintenance and repair of highways, streets, roads, alleys, sidewalks and sewer and water systems within or adjacent to the project; garbage and



trash collection and disposal; storm drainage; control of and protection against flood or flood waters; street lighting on streets or roads within such project and on the boundaries thereof; and adequate sewer services for such projects;

(c) That the political subdivision shall, without cost or charge to the authority, vacate such streets, roads and alleys within the area of such housing project as the authority may find necessary in the development or administration thereof and shall convey without charge to the authority such interest as the political subdivision may have in such vacated areas;

(d) That, in so far as it may lawfully do so, the political subdivision shall make changes in the zoning of the site of such housing project as are reasonable and necessary for the development and protection thereof;

(e) That the political subdivision shall, without cost or charge to the authority or to the tenants of such housing project, provide, improve, pave, construct and maintain all interior streets, roads, alleys, sidewalks and storm and sanitary sewer mains and laterals within the area of such project (and shall accept necessary dedications of land therefor), and shall, in like manner, provide, improve, pave, construct and maintain all streets, roads and alleys bounding such project or necessary to provide adequate access thereto, and also all water mains and storm and sanitary sewer mains leading to such project or serving the bounding streets thereof; and

(f) That the political subdivision shall, when requested by the authority, without cost or charge to the authority, remove from such project any sick or disabled elderly person, who is a tenant therein, and shall thereupon furnish to such elderly person, without cost or charge to the authority, suitable medical, nursing and hospital treatment and care.

(g) That the political subdivision shall observe and perform such other terms and conditions as the authority may deem necessary or desirable in connection with the development or administration of such project.

The authority and the respective political subdivisions are authorized to enter into, carry out and enforce such agreements, any other law to the contrary notwithstanding.

**SECTION 4. Extension of powers.** In the selection, ownership, development and administration of housing projects under this Joint Resolution, the authority shall have all of the rights, powers, privileges and immunities that such authority has under chapter 61 and any law in amendment thereof or in addition thereto (including, without limitation to the generality of the foregoing, the power of eminent domain, and the power to make and execute contracts, to issue bonds and other obligations and give security therefor, and to do any and all things necessary, desirable or convenient to develop and administer housing projects) in the same manner and to the same extent as though all the provisions of law contained in chapter 61, and in any laws in amendment thereof or in addition thereto, were expressly applicable to housing projects developed or administered under this Joint Resolution and to the authority and others in regard thereto; **provided**, however, that housing projects developed or administered by the authority under this Joint Resolution shall not be subject to any of the provisions of section 3532 of chapter 61; and, **provided**, further, that the authority may make payments, in such amounts as it finds necessary or desirable, for any services, facilities, work, privileges or improvements furnished for or in connection with such housing projects.

**SECTION 5. Aid from federal government.** The authority may borrow money or accept financial or other assistance from the federal government to assist in its developing and administering housing projects. The authority may do any and all things necessary or desirable to secure such assistance (including obligating itself in any contract with the federal government for loans or contributions to convey to the federal government the project to which said contract relates upon the occurrence of a substantial default thereunder), in the same manner and to the same extent as it may do to secure such aid in connection with slum clearance and housing under the provisions of chapter 61.

**SECTION 6. Government aid; political subdivisions.** Any political subdivision may appropriate money for the purposes of meeting any local participation in housing projects costs or expenses or of providing funds, property, services or facilities for the authority in developing or administering housing projects.

**SECTION 7. Government aid; extension of powers.** The Territory, its political subdivisions and agencies, shall have the same rights and powers to cooperate with and aid the authority with respect to the development and administration of housing projects that the Territory, its political subdivisions and agencies respectively, have under and pursuant to chapter 63 for the purposes of aiding and cooperating in the planning, construction and operation of slum clearance and housing under the provisions of chapter 61.

**SECTION 8. Tenant selection; dwelling accommodations; rentals.** In the administration of housing projects the authority shall at all times observe the following duties in regard to tenant selections, dwelling accommodations and rentals:

(1) Except as hereinafter provided, it shall accept only elderly persons as tenants in such housing projects.

(2) It may accept as tenants in a single dwelling accommodation in any such housing project a husband and wife, or two or more members of the same family; **provided**, each such person is an elderly person. It may also accept as a tenant in any such dwelling accommodation or in any such project, in case of the illness or other disability of an elderly person who is a tenant in such dwelling accommodation or in such project, such person as shall be designated by such elderly person as his or her companion and who is approved by the authority, although such person be not an elderly person; **provided**, however, any such person shall cease to be a tenant thereupon the recovery of, or removal from, the project of such elderly person.

(3) It may rent or lease to an elderly person a dwelling accommodation consisting of such number of rooms as it deems necessary or advisable to provide safe and sanitary accommodations to the proposed occupant or occupants thereof without overcrowding. The authority shall not provide restaurant or dining room services or facilities, nor medical, nursing or hospital services or care, to tenants in any such project.

(4) Notwithstanding the provisions of section 3531 of chapter 61, the authority shall rent or lease dwelling accommodations in any such housing project at such rates (but at no higher rates) as it shall find necessary to produce revenues that will be sufficient so that such housing project shall be and always remain self-supporting. The term "self-supporting" as used

herein means that such rates shall be such as will produce revenue at least sufficient (a) to pay when due all bonds and interest thereon, for the payment of which such project, including its revenues, is or shall have been encumbered, charged or pledged, including reserves therefor, (b) to provide for all expenses of operation, maintenance and administration of such project including reserves therefor and the cost of insurance and the administrative expenses of the authority, and (c) to reimburse any revolving or other fund, over such period or in such periodic installments as the authority shall fix and determine, for all moneys used from such fund by the authority to develop or administer such housing project.

**SECTION 9. Rules and regulations.** The authority may prescribe such rules and regulations for the development, operation, maintenance and administration of such housing projects, not inconsistent herewith, as it may deem advisable. Sections 466 to 476, inclusive, including amendments to any of the same, shall not apply to such rules and regulations.

**SECTION 10. Appropriation.** The authority is hereby authorized to expend from the housing revolving fund created by section 12 of Joint Resolution 4, as amended, such moneys as may be available therein and as it may deem necessary or desirable to carry out the purposes of this Joint Resolution, including the making of the said investigations, findings and determinations and the development and administration of housing projects.

**SECTION 11. Disposition of housing.** If the authority shall at any time determine that any housing project is no longer needed for dwelling accommodations for elderly persons, such project shall become subject to and be administered by the authority under either chapter 61 or Joint Resolution 4, as the authority may deem advisable.

**SECTION 12. Powers in addition to other powers.** The powers conferred by this Joint Resolution shall be in addition and supplemental to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of the authority.

**SECTION 13. Savings clause.** If any phrase, clause, sentence, subsection, section, provision or part of this Joint Resolution, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Joint Resolution, or the application of this Joint Resolution to other persons or circumstances shall not be affected, and such remaining portions of this Joint Resolution shall remain in full force and effect thereafter. The legislature hereby declares that it would have passed this Joint Resolution, and each phrase, clause, sentence, subsection, section, provision or part thereof, irrespective of the fact that any one or more of the phrases, clauses, sentences, subsections, sections, provisions or parts be declared unconstitutional or invalid.

**SECTION 14. Effective date.** This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1955.) H.J.R. 109, J.R. 51.

## J. R. 52

**Joint Resolution Relating to Assistance for Korean Veterans with Respect to On-Farm Training, and Providing an Appropriation therefor.**

WHEREAS, World War II veterans, under P. L. 346 (78th Congress), were and are entitled to 100 percent payment up to \$41.66 from the veterans administration for on-farm training, and such veterans took full advantage of on-farm training to a point where well over \$17,000.00 per month was brought into the Territory from federal funds; and

WHEREAS, under P. L. 550 (82nd Congress) titled Veterans' Readjustment Act of 1952, qualified Korean War Veterans must pay 100 percent of the cost of on-farm training, and are now paying a tuition of \$41.66 per month; and

WHEREAS, on-farm training is the only course under P. L. 550 of less than college grade in the public schools in which the veteran must pay for the entire cost of the course; and

WHEREAS, the expansion of diversified farming is essential to the economy and welfare of the Territory, and reduction of training allowance contained in P. L. 550 will tend to prevent such expansion; and

WHEREAS, kindergarten fees paid during the months of September, October, November, and December, 1953, inclusive, were refunded in full by Executive Order and J. R. 22, Session Laws of 1953 authorized assistance to all Korean veterans who qualify for flight training under P. L. 550 (82nd Congress) to the extent of \$40,000.00 during the 1953-1955 biennium; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of \$15,000.00 is hereby appropriated from the general revenues of the Territory not otherwise appropriated to be included in the budget of the division of vocational education, department of public instruction, and set aside specifically to pay for all veterans on-farm training instructional cost except instructional supply cost.

SECTION 2. An additional sum of \$9,000.00 is hereby appropriated from the general revenues of the Territory not otherwise appropriated to be included in the budget of the division of vocational education, department of public instruction, in order to refund to all veterans, who have taken or are pursuing a course of on-farm training under the provisions of P. L. 550 (82nd Congress), costs at the rate of \$41.66 per veteran per month, or a pro-rate part thereof.

SECTION 3. Any money appropriated under section 2 of this Act left unused shall be used as specified in section 1 of this Act.

SECTION 4. The department of public instruction shall continue this assistance as long as veterans are eligible under P. L. 550 or similar Acts, subject, however, to department of public instruction policies regarding the number of trainees necessary to maintain a training center.

SECTION 5. This Joint Resolution shall take effect upon its approval.

(Approved June 7, 1955.) H.J.R. 115, J.R. 52.

**J. R. 53**

**Joint Resolution**

WHEREAS, on January 25, 1951, the Commissioner of Public Lands of the Territory of Hawaii leased to Tongg Publishing Company, Limited, by Revocable Permit No. 575 certain government land situated at Dillingham Boulevard, Kapalama, Honolulu, T. H., with a warehouse designated as warehouse No. 2; and

WHEREAS, pursuant to the requirement of the office of the Commissioner of Public Lands, fire insurance in the amount of \$7,500.00 was secured to insure the shell of warehouse No. 2; and

WHEREAS, Tongg Publishing Company, Limited, expended the sum of \$12,000.00 to improve said warehouse No. 2 as was necessary to its business operation; and

WHEREAS, on July 18, 1951, Tongg Publishing Company, Limited, increased the fire insurance coverage from \$7,500.00 to \$14,000.00 to insure the shell as well as the improvements erected therein and the office of Public Lands was made the loss payee of said insurance policy; and

WHEREAS, on November 14, 1954, a fire raged through the Kapalama area and completely destroyed said warehouse No. 2 with all of the improvements thereon; and

WHEREAS, on March 1, 1955, the sum of \$14,000.00 was paid to the Commissioner of Public Lands based on the fire insurance policy taken out by Tongg Publishing Company, Limited; and

WHEREAS, the legal right of the Territory of Hawaii to the entire sum of \$14,000.000 is clear, however, there is a moral obligation on the part of the Territory of Hawaii to reimburse the Tongg Publishing Company, Limited, a certain sum of money not in excess of \$4,000.00 from the insurance proceeds for the loss of its improvements which the Commissioner of Public Lands does not deny; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum appropriated by this Act shall be paid upon warrants drawn upon the treasurer by the auditor of the Territory.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved June 8, 1955.) **S.J.R. 66, J.R. 53.**

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**J. R. 54**

**Joint Resolution Requesting the Congress of the United States to Amend Section 73 of the Hawaiian Organic Act to Provide for the Screening of Applicants for Homesteads Prior to Selection by Drawing or Lot and to Permit Payment for Such Homesteads to Be Made Over Periods of Time.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully

equested to amend section 73 (i) of the Hawaiian Organic Act substantially is set forth in the following form of bill:

"A Bill to Amend Section 73 (i) of the Hawaiian Organic Act.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

SECTION 1. After public notice as hereinafter provided, the persons entitled to take under any such certificate, lease, or agreement shall be determined by drawing or lot; **provided**, however, the commissioner shall have the authority to determine who shall be eligible for the same and to restrict participation in said drawing or lot to those applicants who by reason of experience or training are qualified farmers or ranchers.

SECTION 2. The sale of such lands to successful applicants shall be on an extended time basis so that such applicants are not required to pay the entire purchase price therefor upon the receipt of such lands.

SECTION 3. This Act shall take effect on and after the date of its approval."

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 8, 1955.) S.J.R. 126, J.R. 54.

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## J. R. 55

Joint Resolution Authorizing the Department of Public Instruction to Operate Cafeterias in Schools Which Are Now Too Small to Be Assigned Full-Time Cafeteria Managers and to Employ Part-Time Workers therefor and Making an Appropriation for Said Purpose.

WHEREAS, the system of education in the Territory is proclaimed to be offering equal opportunities to all public school children in attendance throughout the Territory; and

WHEREAS, relative to the lunch program of the public schools, the children of certain schools are being denied equal opportunity by reason of their attendance at schools which are too small to make it economically sound for the Territory to maintain cafeterias at said schools; and

WHEREAS, there are 11 such schools without cafeterias in the county of Hawaii alone; and

WHEREAS, said schools have taken it upon themselves to provide some semblance of cafeteria services by employing workers who are willing to prepare lunches, on a part-time basis, for a minimum wage; and

WHEREAS, the financing of such a program by the schools affected has been a hardship financially for said schools; and

WHEREAS, the regulations under which cafeteria managers are employed by the department of public instruction of the Territory provide only for full-time cafeteria managers thereby preventing the children attending these small schools from having this service on an equal basis with all other school children; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Notwithstanding any law to the contrary, the department of public instruction is hereby authorized and directed to operate cafeterias in schools which are now too small to be assigned full-time cafeteria managers and to employ necessary part-time workers for the effective conduct and maintenance of said cafeterias at said schools.

SECTION 2. The sum of \$25,000 is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, to be used for the purpose herein defined by this Joint Resolution.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 15, 1955.) H.J.R. 139, J.R. 55.

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### J. R. 56

Joint Resolution Requesting the Congress of the United States to Waive Certain Restrictions with Respect to Exchanges of Public Lands for Emergency Relief to Distressed Persons in Puna, Hawaii.

WHEREAS, recent volcanic activity in the district of Puna, county of Hawaii, Territory of Hawaii, has desolated many acres of heretofore productive farm lands; and

WHEREAS, unlike other catastrophic events which befall lands and render them only temporarily unproductive, lands inundated by flowing lava are rendered totally worthless for thousands of years; and

WHEREAS, there is little or no privately owned land in or about the district of Puna, Hawaii, available for purchase by those persons whose lands have been so destroyed; and

WHEREAS, there are substantial acreages of public lands within and adjacent to the said district of Puna, Hawaii, which can be made available to those persons whose lands were destroyed by such volcanic activity and to persons who had existing leases of such lands; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact suitable legislation which would, notwithstanding any provision of the Hawaiian Organic Act, authorize and direct the commissioner of public lands to sell, to persons whose lands were destroyed by lava flows and to persons who had such lands under lease, public lands within or adjacent to the district of Puna, county of Hawaii, Territory of Hawaii, the area of such land to be purchased by any one person, not to exceed 80 acres or the area of land destroyed, whichever is the smaller, each such sale to be at a price determined by the board of public lands of the Territory of Hawaii to be the reasonable value thereof.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 15, 1955.) H.J.R. 190, J.R. 56.

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### J. R. 57

Joint Resolution Requesting the United States Bureau of Public Roads to Permit the Construction by Private Persons of Parking Areas and Driveways Annexed to Federal-Aid Highways.

WHEREAS, the construction of parking areas and driveways for the use of private purposes is not now permitted by the United States bureau of public roads where such construction requires the disturbance of a federal-aid highway; and

WHEREAS, it would appear that such construction could be undertaken under protective safeguards which the bureau of public roads may wish established without damage to the federal-aid highways; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The United States bureau of public roads is hereby respectfully requested to adopt such regulations as will permit the construction of parking areas and driveways for private use when such construction is annexed to a federal-aid highway and requires the disturbance of such highway, including curbs and sidewalks.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the Secretary of Commerce, to the Commissioner of the Bureau of Public Roads and to the Delegate to the Congress of the United States from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon approval.

(Approved June 17, 1955.) H.J.R. 193, J.R. 57.



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